

### LICENSING SUB-COMMITTEE 3

Tuesday 21<sup>st</sup> January, 2014 at 10.05 am  
in the Council Chamber, The Council House, Dudley

#### PRESENT:-

Councillors Bills, Sykes and Taylor

#### Officers

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

---

#### 30. ELECTION OF CHAIR

In the absence of the chair (Councillor K. Finch) it was

RESOLVED

That Councillor Bills be elected chair for this meeting of the Sub-Committee only.

(Councillor Bills in the Chair)

---

#### 31. APOLOGIES FOR ABSENCE

Apologies for absence from the meeting was submitted on behalf of Councillors Mrs Ameson and K. Finch.

---

#### 32. APPOINTMENT OF SUBSTITUTE MEMBERS

It was noted that Councillors Bills and Taylor were serving as substitute members for Councillors K. Finch and Mrs Ameson, respectively, for this meeting of the Sub-Committee only.

---

#### 33. DECLARATIONS OF INTEREST

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

---

#### 34. MINUTES

RESOLVED

That the minutes of the meeting held on 3<sup>rd</sup> December, 2013, be approved as a correct record and signed.

---

35. 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 Nos 6 and 5.

---

36. APPLICATION FOR REVIEW OF PREMISES LICENCE – BROADSTONE CONVENIENCE STORE, TWO GATES, HALESOWEN

A report of the Director of Corporate Resources was submitted on an application for the review of the premises licence in respect of Broadstone Convenience Store, Two Gates, Halesowen.

Mr J Iqbal, Premises Licence Holder and Designated Premises Supervisor was in attendance at the meeting together with his representative, Mrs G Sharratt, Licensing Matters; Mr N Iqbal, Son; and Ms D Cashmore, supporter.

Also in attendance were Mr C King, Principal Trading Standards Officer, Directorate of the Urban Environment; and Ms D McNulty, Office of Public Health.

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

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 licensing objective, namely, the prevention of crime and disorder due to the poor management of the premises following the seizure of illicit alcohol on 22<sup>nd</sup> April, 2013 and 4<sup>th</sup> September, 2013 in direct contravention of the licensing objectives.

It was noted that on 26<sup>th</sup> October, 2011 an alcohol test purchase was conducted at the premises, with no sale being made.

It was further noted that following a complaint received on 12<sup>th</sup> March, 2012 by a member of the public that they had witnessed the sale of alcohol to a child at the premises, a further test purchase exercise was carried out on 16<sup>th</sup> March, 2012, with no sale being made.

Mr King further stated that on 22<sup>nd</sup> April, 2013, during an advisory visit to the premises, an officer checked the stock on display and found fifteen 70cl and six 1ltr bottles of Glens vodka, which he suspected of having counterfeit duty paid labels on the rear. The bottles were seized and a Trader's Notice 0414 was issued as a receipt.

The manufacturer of the vodka, Glen Catrine Ltd, confirmed that although the bottles contained genuine vodka, the bottles were originally made for the black market and had counterfeit duty paid labels attached to evade the excise duty payable to HMRC.

A second inspection of the premises on 4<sup>th</sup> September, 2013 found three 70cl bottles of Glens vodka for sale on the shelving behind the shop counter. An examination of the bottles suggested that they were counterfeit. It was noted that in a basement store room, the officer present found an open box containing four 70cl and four boxes containing forty-eight 70cl bottles of Glens vodka. All of the bottles were seized as it was suspected that they were counterfeit, and a report No. IR 2879 issued as receipt for the seizure.

Prior to leaving the premises, the officer present requested that Mr Iqbal submit receipts relating to the purchase of the seized vodka by 13<sup>th</sup> September, 2013, however to date this had not been actioned and Mr Iqbal had not contacted Trading Standings to discuss the matter further.

Mr King stated that one of the bottles seized on 4<sup>th</sup> September, 2013 had been analysed, and it was found to contain substances such as propan-2-ol and t-butanol, and therefore did not contain genuine vodka.

Another bottle was then sent to Glen Catrine Ltd for examination, and it was concluded that the bottles of vodka were not genuine and counterfeit and therefore breached trademarks owned by the manufacturer.

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.

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 potential health risks to members of the public following the discovery of two components that there were normally found in industrial processes.

In concluding, Ms McNulty stated that she would support any actions that prevented Mr Iqbal from making counterfeit alcohol available to the public.

In responding to a question by the Legal Advisor, Mr King stated that although only two bottles were analysed, all bottles that had been seized were counterfeit. He further stated that the bottles seized on 4<sup>th</sup> September, 2013 were counterfeit in respect of duty labels and content.

Mrs Sharratt then presented the case on behalf of Mr Iqbal, and in doing so stated that Mr Iqbal had accepted responsibility and agreed with the facts presented. She also stated that Mr Iqbal had owned the general convenience store since 2011 and there had not been any issues or problems therefore Mr Iqbal had been compliant in other areas. It was further noted that eight members of staff and family members worked at the premises.

Mrs Sharratt further stated that Mr Iqbal, due to ill health, had taken a step back from management of the store, which was supported by a letter from Mr Iqbal's Doctor submitted prior to the meeting. It was noted that during Mr Iqbal's ill health he had trusted his manager, Mr Purwell, to manage the store however during Mr Iqbal's visit to Pakistan in April, 2013, Mr Purwell purchased counterfeit alcohol over the counter. Mr Purwell resigned following the purchase due to the problems caused to Mr Iqbal.

It was noted that following the resignation of Mr Purwell, Mr Iqbal's younger son, Fahim, was promoted and in September, 2013 purchased alcohol from over the counter not knowing that the alcohol could cause harm or that they may have counterfeit duty labels attached to the bottles. Mr Iqbal removed his son from his duties and re-evaluated the operation of the premises.

It was noted that Mr Iqbal's elder son, Naheem, who was in attendance at the meeting, would take over responsibility of the premises and become the Designated Premises Supervisor in the near future, and that he was taking appropriate steps into applying for his personal licence.

Mrs Sharratt stated that Mr Iqbal did not deny the purchases in the premises and acknowledged that alcohol should be purchased from cash and carry's that issued receipts, and requested the Sub-Committee to consider the previous test purchase exercises undertaken at the premises that resulted in no sale being made.

Mrs Sharratt made reference to the conditions suggested by Trading Standards, in particular, that Mr Iqbal was in agreement and suggested that the Sub-Committee may wish to include a further condition that prohibited Mr Iqbal purchasing alcohol over the counter and a poster displayed. She further stated that the Sub-Committee may wish, if deemed necessary, to remove Mr Iqbal as the Designated Premises Supervisor.

Mr Iqbal stated that he understood that the purchasing of alcohol over the counter should have not taken place and that he was let down by two people who he had trusted. He stated that there were no other issues and apologised.

In responding to a question by a member, Mr Iqbal confirmed that he was responsible for the accounts of the premises, and that he was only aware of the purchasing of the counterfeit alcohol after the inspections undertaken by Trading Standards in April and September, 2013.

In responding to the comments made by Mrs Sharratt, Mr King thanked Mr Iqbal for his honesty and that it was apparent that the poor management of the premises reflected the deteriorating health of Mr Iqbal. He also stated that Mr Iqbal had failed to provide Trading Standards with receipts or information in respect of who had sold the alcohol, and that he did not attend two interviews, due to ill health. Mr Iqbal responded that he would be handing responsibility of the premises to Naheem and that he had informed all staff members not to purchase alcohol over the counter. He further stated that he invested a large amount of money into the business and that he always purchased alcohol from cash and carry's.

In responding to a question by Mr King relating in particular to Mr Iqbal's son Fahim purchasing alcohol in September, 2013; Mr Iqbal stated that although Fahim purchased the alcohol from a person he could trust, he would be unable to contact him for further information. It was noted that Fahim purchased the alcohol the day before the Trading Standards inspection took place on 4<sup>th</sup> September, 2013.

In responding to a question by the Chair, Mrs Sharratt confirmed that all members of staff including family members had been trained and only the store manager and family members were permitted to purchase alcohol for the premises.

Reference was made to the lack of receipts for the two purchases, in particular that Mr Iqbal should have noticed that the accounts did not appear correct. In responding, Mr Iqbal stated that due to other commitments and work patterns, he would sometimes be delayed in checking the accounts.

It was noted that some companies such as Cadbury's occasionally sold their products to Mr Iqbal in the premises.

Ms Cashmore, in support of Mr Iqbal, stated that she had previously worked at the premises and was present at the premises when the counterfeit goods were seized. She further stated that the training programme provided by Mr Iqbal was very good and that given that she had known Mr Iqbal for over twenty years she had not known him to be involved with anything illegal.

Ms Cashmore further stated that although she understood the seriousness of the case, she requested the Sub-Committee to consider the potential financial impact that could be caused to Mr Iqbal and the members of staff.

Reference was made by the Legal Advisor in respect of the alcohol purchased (in a twelve bottle box) by Mr Iqbal's son the day before the Trading Standards inspection took place on 4<sup>th</sup> September, 2013, in particular, that there were seven bottles accounted, therefore five bottles missing and assumed sold during the day. In response, Mr Iqbal stated that the only facts that he knew were what his son had explained to him, in that he had purchased the alcohol the night before.

In responding to a question by the Legal Advisor, Mrs Sharratt confirmed that three weeks would be a realistic time to appoint Naheem Iqbal as the Designated Premises Supervisor.

In summing up, Mr King, on behalf of Trading Standards, stated that Mr Iqbal had accepted the facts presented in relation to the two seizures on 22<sup>nd</sup> April, 2013 and 4<sup>th</sup> September, 2013, and that although Mr Iqbal had been requested to submit information in respect of where the alcohol had been purchased, it had been confirmed today that Mr Iqbal's son had purchased the alcohol over the counter. He further stated that it was evident that the management of the premises had reflected Mr Iqbal's bad health and that his concerns of the premises remained.

In summing up, Ms McNulty, on behalf of Public Health, urged Mr Iqbal to inform Trading Standards of the location of the counterfeit alcohol in order to prevent any harm to members of the public.

In summing up, Mrs Sharratt on behalf of Mr Iqbal, stated that the business, in the long-term, would be transferred to Naheem Iqbal, and the process for appointing Naheem as the Designated Premises Supervisor could be completed quickly. She further stated that she considered a suspension would not be proportionate and suggested adding additional conditions in relation to purchasing alcohol over the counter.

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, following careful consideration of the information contained in the report submitted, and as reported at the meeting, Mr J Iqbal be removed as the Designated Premises Supervisor in respect of the premises known as Broadstone Convenience Store, Two Gates, Halesowen.

The conditions listed below will also be attached to the premises licence.

### REASONS FOR DECISION

This is a review of a premises licence, brought by Trading Standards in respect of Broadstone Convenience Store. The review was brought as a result of two specific incidents. The first was the seizure of twenty-one bottles of vodka on 22<sup>nd</sup> April, 2013, which were suspected, and later found, to have counterfeit duty paid labels. The vodka was genuine but the counterfeit labels were added to evade duty. The bottles were seized, found to be counterfeit, and therefore not returned to the store. No further action was taken.

On 4<sup>th</sup> September, 2013, Trading Standards conducted a further visit to the premises. 3 bottles of vodka were found for sale on the shelves which were believed to be counterfeit. A search of the shop store room revealed four twelve-bottle boxes of vodka and an open box with just four bottles of vodka inside. These too were suspected as counterfeit. Tests revealed that the bottles contained counterfeit alcohol, probably of industrial origin.

Mr Iqbal, the Premises Licence Holder and Designated Premises Supervisor, attended today. He accepted full responsibility for the two purchases of alcohol. Mr Iqbal has, due to ill health, taken a step back from management of the store day to day. In April, 2013, the store manager purchased counterfeit alcohol over the counter. He resigned as a result of this purchase. Mr Iqbal accepted that alcohol should not be bought over the counter, but should be bought from a cash and carry.

In September, Mr Iqbal's son Fahim, who had been promoted, bought alcohol from over the counter again and not from a cash and carry. Mr Iqbal accepts that this alcohol was counterfeit and does not dispute the test analysis.

Mr Iqbal did not attend for two interviews with Trading Standards, he says, due to ill health. Mr Iqbal stated that he cannot trace the person who sold the alcohol to his son, and that his son cannot identify the person who sold the alcohol on the second occasion. Mr Iqbal stated that his son stated he purchased the alcohol the day before the Trading Standards inspection took place on 4<sup>th</sup> September, 2013. If this is true, it appears that as many as five bottles of vodka were sold in a day. The Sub-Committee finds that Mr Iqbal's son has probably not told the truth about the purchase. No receipts appear to have been taken. The Sub-Committee is extremely disappointed that Mr Iqbal and his son have not presented information about the seller to Trading Standards, particularly as the son is stated to have purchased the alcohol from a person he could trust. It is clear that the whole truth is not being told.

Mr Iqbal accepts that he has not managed the premises as well as he ought to have done, and has taken some steps toward appointing his son, Nahim, as Designated Premises Supervisor. The Sub-Committee finds that Mr Iqbal has not managed the premises as he should, and therefore removes him as the Designated Premises Supervisor.

The Sub-Committee takes the further step of imposing the two conditions proposed by Trading Standards listed below, on the premises licence, and also add the following condition :-

- (1) All alcohol purchased for sale on the premises must only be purchased from a recognised, reputable and traceable wholesaler.
- (2) All alcohol purchased for sale on the premises must be covered by a receipt. The receipt will be on headed notepaper bearing the name, address and contact number of the supplier together with their VAT and company registration number where appropriate. These receipts will be kept in a file for a minimum of 2 years and must be made available for inspection, on demand, by an officer of a responsible authority.
- (3) The premises shall display a clear notice in the front shop window stating, that alcohol is only purchased by these premises from a recognised, reputable and traceable wholesaler.

Mr Iqbal was informed of his right to appeal the decision of the Sub-Committee.



A report of the Director of Corporate Resources was submitted on an application for the review of the premises licence in respect of Best Wine Off Licence, 4 Castle Street, Coseley be deferred.

It was noted that the Premises Licence Holder, Mr B Limachiya was not in attendance at the meeting, and that a letter and phone call inviting him to the Sub-Committee had been delivered in sufficient time.

Mr C King, Principal Trading Standards Officer, Directorate of the Urban Environment; and Ms D McNulty, Office of Public Health were in attendance at the meeting.

Following a brief discussion it was

#### RESOLVED

- (1) That, in view of the Premises Licence Holder's non-attendance, the application for the review of the premises licence in respect of Best Wine Off Licence, 4 Castle Street, Coseley.
- (2) That the Licensing Clerk be requested to write to the Premises Licence Holder to request his attendance at a re-convened meeting, and to inform him that should he fail to attend the Sub-Committee the application would be heard in his absence.

---

Meeting ended at 12.05 pm.

CHAIR