

## LICENSING SUB-COMMITTEE 3

Tuesday 3<sup>rd</sup> December, 2013 at 10.55 am  
in the Council Chamber, The Council House, Dudley

### PRESENT:-

Councillor K Finch (Chair)  
Councillors Bills and Russell

### Officers

Miss N Bangar (Legal Advisor), Mrs L Rouse (Licensing Clerk) and Mrs K Taylor (Directorate of Corporate Resources).

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24. APOLOGIES FOR ABSENCE

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

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25. APPOINTMENT OF SUBSTITUTE MEMBERS

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

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26. DECLARATIONS OF INTEREST

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

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27. MINUTES

RESOLVED

That the minutes of the meeting held on 24<sup>th</sup> September, 2013, be approved as a correct record and signed.

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28. APPLICATION FOR REVIEW OF PREMISES LICENCE – MICHAEL'S SUPERMARKET, 18 – 19 WOLVERHAMPTON STREET, DUDLEY

A report of the Director of Corporate Resources was submitted on an application for the review of the premises licence in respect of Michael's Supermarket, 18 – 19 Wolverhampton Street, Dudley.

Mr C Singh, Premises Licence Holder, together with his Solicitor, Mr Curtis were in attendance at the meeting.

Also in attendance were Mr C King, Principal Trading Standards Officer, and Mr G Wintrip, Age Restricted Products Officer, both from the Directorate of the Urban Environment, Ms D McNulty, Public Health, and WPC's N Lees and K Turley, both Licensing Officers of West Midlands Police Authority.

Following introductions by the Chair, Mrs L Rouse, Licensing Clerk, 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 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 27<sup>th</sup> September, 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.

Mr King further reported that a Mr J Singh was the Designated Premises Supervisor.

It was noted that on 11<sup>th</sup> October, 2006 Dudley Trading Standards carried out a series of intelligence led test purchases of alcohol from licensed premises. On this occasion, the underage sale volunteers were sold one bottle of "Frosty Jack" White Cider by an employee of the then Licensee, Mr P Singh. The sale resulted in the prosecution of the seller.

It was further noted that on 30<sup>th</sup> July, 2008, there was a further test purchase failure. The underage sale volunteer was sold one bottle of WKD Blue by a Mr C Singh, who was believed to be the premises licence holder. This sale resulted in the prosecution of Mr Singh and Mr P Singh for the sale of alcohol.

On 7<sup>th</sup> April, 2011 an advisory visit was carried out at the premises, and a tobacco test purchase was conducted on 25<sup>th</sup> July, 2012 at the premises with no sale being made.

On 17<sup>th</sup> October, 2012, an advisory visit was undertaken at the premises to provide advice in relation to preventing underage sales of age restricted products. Mr C Singh, who was present at the time, was given detailed advice, including information in respect of acceptable proof of age and the importance of keeping a refusals register. Mr Singh was also 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, and was asked to ensure that it was brought to the attention of all staff to ensure they were aware of their obligations under the Licensing Act 2003. It was reported that during the course of this visit, Mr Singh signed an ARP 0703 form to acknowledge receipt of the information pack.

On 18<sup>th</sup> September, 2013, an officer from Trading Standards carried out a further advisory visit to the premises and spoke to Mr C Singh again. The purpose of the visit was to provide advice in relation to preventing underage sales of age restricted products. It was reported that during the course of this visit, Mr Singh signed an ARP 0973 form to acknowledge that the visit had taken place.

Mr King further stated that on 27<sup>th</sup> September, 2013, Trading Standards together with West Midlands Police, carried out a test purchase at the premises to determine compliance with the law on the sale of alcohol to children. On that occasion, a fifteen year old male test purchaser volunteer purchased a 700ml bottle of WKD Iron Brew with 4% 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 a Miss R Johal, who was believed to be the daughter of Mr C Singh. When cautioned Miss Johal admitted that she had remembered making the sale.

On inspection of the premises, it was noted that there were several Age Restricted Products on display and a 'Challenge 25' policy in place.

Miss Johal was then 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 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 recommendation to revoke or suspend the premises licence.

Ms Turley then presented the representations of West Midlands Police and in doing so informed the Sub-Committee that on a regular basis people would enter the premises to purchase alcohol and drink the products in the town centre, which was a no drinking zone. It was noted that officers had previously attended the premises providing advice in relation to serving people who appeared to be intoxicated, however officers found staff members to be obstructive in allowing the CCTV to be viewed to either confirm or prove any offence.

Ms Turley further reported that West Midlands Police supported the recommendation to revoke the premises licence due to the recent underage sale and previous incidents.

Mr Curtis then presented the case on behalf of Mr Singh, and in doing so stated that that the premises was a family-run business, and that responsibility had been taken for the sale of alcohol to a child, which was evident through Mr Singh displaying notices in accordance with guidance notes that had been issued on 27<sup>th</sup> September, 2013.

Mr Curtis referred to the sale of alcohol on 27<sup>th</sup> September, 2013, in particular that Mr Singh and his wife left the premises to attend a wedding, and requested their daughter, Miss Johal, an experienced personal licence holder, to manage the premises in their absence.

Mr Curtis stated that Miss Johal did not distinguish the age of the test purchase volunteer or adopt the Challenge 25 policy, which was in place at the time.

Following the representations of West Midlands Police, Mr Curtis referred to the allegation made in respect of serving people who appeared to be intoxicated. He stated that there was insufficient evidence presented to support the allegation, and that Mr Wintrip had previously witnessed Mr Singh refuse a sale of alcohol to a drunken person.

Mr Curtis referred to the powers awarded to the Sub-Committee in relation to Mr Singh's premises licence, and stated that revocation of the licence would not be a proportionate response, given that previous incidents had taken place more than six years ago.

It was noted that Mr Singh had ensured that all staff members were aware of their responsibility in relation to Age Restricted Products, and that if the Sub-Committee were minded to attach the conditions suggested by Trading Standards, they would be sufficient to prevent any further mistakes.

In responding to a question, Mr Curtis confirmed that Mr P Singh was the elder brother of Mr C Singh, and was the licensee prior to Mr C Singh, and that Mr J Singh, the current Designated Premises Supervisor, was also his brother.

Further reference was made to the allegation made by West Midlands Police in relation to serving people alcohol who were intoxicated, in responding, Ms Turley stated that she was unable to provide further information due to the Sergeant who had provided a statement being unavailable.

Following a request made by a member, Mr Curtis circulated the Refusals Register.

In responding to a question by a member in relation to the condition of the CCTV installed at the premises; Mr Singh confirmed that the CCTV was in good working order and that the issues were due to some staff members not being trained to access the system.

In responding to a question by a member in respect of the proposed additional conditions submitted by Trading Standards, Mr Curtis outlined a number of conditions that he considered to be inappropriate to Mr Singh, however he accepted that the conditions were a matter for the Sub-Committee to determine.

Reference was made to comments made in respect of Miss Johal's responsibility as an experienced Personal Licence Holder; in responding, Mr Singh stated that Miss Johal deeply regretted the sale made to the child.

Following comments made by Trading Standards in respect of the entries made in the Refusals Register; Mr Singh confirmed that a previous Refusals Register could not be located due to recent refurbishments undertaken at the premises.

In responding to a question by the chair to sum up their cases; all parties confirmed that they did not have anything further to add, however Trading Standards reported that there were some concerns in respect of the incidents at the premises that were managed by the same family for a long period of time.

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, the premises licence issued to Michael's Supermarket, 18 – 19 Wolverhampton Street, Dudley, be suspended for a period of one month. Following completion of the conditions listed below, and notification given to the Licensing Officer, the suspension of the premises licence will be lifted.

The following conditions will be attached to the premises licence:

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### 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 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) 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.
- (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 other person, regardless of age, shall be refused service.

### REASONS FOR DECISION

Following careful consideration of the information contained within the report and as reported at the meeting, the Sub-Committee have decided to suspend the premises licence for a period of one month.

The Sub-Committee will also attach the nine conditions as set out by Trading Standards.

Should these nine conditions be met and confirmed with the Licensing Officer before the expiration of the period of suspension, then the suspension will be lifted at that time.

The Sub-Committee is satisfied that implementation of the nine conditions will prevent the premises from further undermining the licensing objectives in particular the prevention of crime and disorder and the protection of children from harm.

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29. APPLICATION FOR HOUSE TO HOUSE COLLECTIONS LICENCE – ROYAL ORTHOPAEDIC HOSPITAL BONE TUMOUR SERVICE (ROHBTS) AND RECYCLING AND MANAGEMENT SERVICES LTD (R & MS LTD)

A report of the Director of Corporate Resources was submitted on an application for the grant of a House to House Collections Licence in respect of the Royal Orthopaedic Hospital Bone Tumour Service (ROHBTS) and Recycling and Management Services Ltd (R & MS LTD).

It was noted that the applicant was not in attendance and notification of the non-attendance had not been received.

RESOLVED

- (1) That the application made for a street collection permit in respect of the Royal Orthopaedic Hospital Bone Tumour Service (ROHBTS) and Recycling and Management Services Ltd (R & MS LTD) be deferred to a future meeting of a Sub-Committee.
- (2) That the Licensing Clerk, be requested to write to the Applicant, informing them to contact the Licensing Office within fourteen days if they wished to proceed with the application, otherwise the application would then be withdrawn.

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Meeting ended at 11.55 am.

CHAIR