

## LICENSING SUB-COMMITTEE 1

Tuesday 6<sup>th</sup> October, 2009 at 2.50pm  
in The Council Chamber, The Council House, Dudley

### PRESENT:-

Councillor Ryder (Chairman)  
Councillors Nottingham and Tyler

### Officers

Principal Solicitor (Legal Advisor), Mrs J Elliott (Licensing Officer) and  
Miss K Wilson (Directorate of Law, Property and Human Resources).

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### 5 DECLARATIONS OF INTEREST

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

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### 6 MINUTES

#### RESOLVED

That the Minutes of the Meeting of the Sub Committee held on 4<sup>th</sup> August 2009, be approved as a correct record and signed.

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### 7 APPLICATION FOR REVIEW OF PREMISES LICENCE – NAIKS MINI MARKET, 3 GLADSTONE BUILDINGS, NEW STREET, DUDLEY

A report of the Interim Director of Law, Property and Human Resources was submitted on an application, made by the Council's Trading Standards section, for the review of the premises licence in respect of Naiks Mini Market, 3 Gladstone Buildings, New Street, Dudley.

Mr A Curtis, Kenneth Curtis and Co Solicitors was in attendance at the meeting, together with Mr Gurnaik Singh (Premises License Holder), Mr G Hughes Evans (Witness) and nine supporters.

Also in attendance and objecting to the application were Mr M Chambers, accompanied by Ms Y Enefer and Mr C King from Trading Standards and PC D Smith (West Midlands Police).

Following introductions, the Chairman outlined the procedure to be followed.

Mrs J Elliott, Licensing Officer, Directorate of Law, Property and Human Resources, presented the report on behalf of the Council.

Mr Chambers then presented the representations of Trading Standards in respect of the application to review the premises licence made at Appendix 1 to the report submitted. Details were given of test purchase exercises for the period January 2004 to May 2009, and Mr Chambers highlighted two discrepancies of dates when the premises was visited:

- 15 February 2007 – should read 16 May 2007
- 25 February 2009 – should read 3 March 2009.

It was noted that on 22<sup>nd</sup> May, 2009 Mr G.S Surma had sold alcohol to a 14 year old child.

Mr Chambers informed the Sub-Committee that the review of the application had been submitted due to the breach of the licensing objective the protection of children from harm. He also stated that the sale of alcohol would have a detrimental effect on the health of the consumers and an increased workload to West Midlands Police in particular to anti-social behaviour.

In summing up, Mr Chambers requested that, due to the history of sales to under-aged children, the Sub-Committee consider that the premises licence be revoked or for the licence to be suspended for a period of three months subject to the conditions set out in the Review application numbered 1 to 13.

PC D Smith supported Mr Chambers representations, and in doing so highlighted the three failed test purchases exercises and that there had been two Designated Premises Supervisors since 2005.

Mr A Curtis of Kenneth Curtis and Co Solicitors then presented the case on behalf of Mr Gurnaik Singh (Premises Licence Holder), and in doing so informed the Sub-Committee that Mr Singh accepted the failings and asked that the Sub-Committee acknowledge that there had not been positive test purchases exercises during the period February 2007 to March 2009.

Reference was made to the positive test purchase exercise on 22<sup>nd</sup> May 2009, in which Mr Curtis stated that this was due to the death of Mr. Singh's mother which he considered to be a mitigating factor.

Mr Curtis highlighted the past convictions as indicated in Appendix 1 to the report submitted, and stated that the sales were not carried out by Mr G Singh, Premises Licence Holder, and that improvements had been made over the past two years.

Mr Curtis then informed the Committee that it was the intention that Mrs Gurbakhas Kaur, wife of Mr G Singh, would replace the current Designated Premises Supervisor following completion of the NCPLH course on 20<sup>th</sup> October 2009.

He also explained that a policy had been implemented to ensure that all members of staff attend the necessary training, and stated that Mr G Hughes-Evans, external training consultant, conducted a seminar on Saturday 20<sup>th</sup> June 2009 with staff on age related products and general liquor licensing matters relating to the store.

Mr G Hughes-Evans introduced himself and informed the Committee that the staff at the premises were aware of the requirements of the law and felt that they were capable of recognising identification correctly.

Mr Curtis stated that a number of conditions set out in Appendix 1 had been implemented and provided updated original pages from the refusals register to the Sub-Committee and objectors.

The Chairman requested that the refusals register book be brought to the meeting, as those submitted were loose pages. Mrs Kuljit Randhawa (staff member) returned to the meeting with an A4 ring binder folder containing blank pages. Mr G Singh confirmed that he photocopied the original book and used the loose pages which were contained in a folder. The Chairman advised that in future the information should be recorded in a solid bound book.

In responding to a question relating to indiscretions on the refusals register, Mr G Singh stated that some refusals had not been recorded on the register.

In responding to a question from Mr Chambers relating to the failure of adhering to the law, Mr Curtis stated that Mr G Singh accepted past mistakes and would ensure that the incident would not be repeated.

The Chairman asked Mr G Singh if he held a personal licence, and Mr G Singh confirmed that he had a personal licence, which had been issued by Sandwell MBC in March 2009.

In response to questions raised on the significant difference between five refusals recorded for the period of July – August 2008 compared to fifty-four plus for July – August 2009, Mr G Singh stated that the increase was due to the vast number of college students and school children.

In responding to a question from Mr Chambers relating to procedures not being followed, Mrs K Randhawa stated that all staff members adhered to the training policy.

Mr Curtis informed the Committee that Mr G Singh's personal licence was dated 1<sup>st</sup> March 2009 to 1<sup>st</sup> March 2019 following a question from a Member.

PC Davies made reference as to whether Mr G Singh had disclosed past convictions on the application for a personal licence, and PC Davies indicated that he would follow this up with Sandwell Council. Mr Curtis in response indicated that the application was in respect of the premises licence and reiterated that it was planned to change the current Designated Premises Supervisor.

In responding to a question from Mr Chambers, Mr G Singh confirmed that an average of three-six children attempt to purchase alcohol every day. Mr Chambers asked for an explanation as to why children regularly visit the premises, to which Mr G Singh responded by saying that he was unsure of the reason but that it may be due to the premises being the first on New Street, Dudley, and that the visits were in relation to cigarettes and not alcohol.

In summing up, Mr Chambers stated that he recognised the efforts made in particular with staff training, however felt that there was no evidence that lessons had been learned and that the incident would not be repeated in the future. He also felt that the refusals register in its present format was unsatisfactory, and asked the Sub-Committee to consider revocation of the premises licence or for the licence to be suspended for a period of three months with the conditions set out in the Review application numbered 1-13.

In summing up, Mr Curtis, on behalf of Mr G Singh, informed the Sub-Committee that all staff members at the premises had been fully trained, and stated that the last sale was a genuine mistake due to the death of Mr Singh's mother. He also highlighted the financial effects to the store if the licence should be revoked and asked for the opportunity for Mr G Singh to adhere to the conditions set out in the Review application numbered 1-13 in appendix 1 to the report submitted.

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, arising from the review of the premises licence held in respect of Naiks Mini Market, the premises licence be suspended for a period of two months with immediate effect for the following reasons:-

The Committee has considered the evidence of Mr. Singh with regard to the sale on 22 May 2009. He accepts the sale, has apologised and the Committee accepts that Mr. Singh was in some degree of personal distress at the time due to the death of his mother.

However, the Committee considers the history to be extremely serious, and the steps that the shop now appears to be taking are significantly overdue.

The Committee considered revocation of the licence but in light of the mitigating circumstances and the current steps to improve the sale of alcohol, the Committee has made a decision not to revoke the licence.

However, in order to bring the procedures up to acceptable standards, the Committee suspends the licence for a period of two months. It considered the maximum suspension of three months but appreciated that this would have a significant impact upon Christmas trade.

The Committee imposes the conditions set out in the Review application numbered 1-13 and additionally imposes the condition that Mrs. Gurbakhas Kaur completes the NCPLH Course in October 2009.

The suspension takes effect from today until 6 December 2009 at midnight.

The meeting ended at 4:55 p.m.

CHAIRMAN