

LICENSING SUB-COMMITTEE 2

Tuesday 29th April, 2014 at 10.00 am
in the Council Chamber, The Council House, Dudley

PRESENT:-

Councillor Russell (Chair)
Councillors Cowell and Taylor

Officers:-

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

22 DECLARATIONS OF INTEREST

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

23 MINUTES

RESOLVED

That the minutes of the meeting of the Sub-Committee held on 25th March, 2014, be approved as a correct record and signed.

24 APPLICATION FOR REVIEW OF PREMISES LICENCE –
SUPERSAVE, 79 RUSSELLS HALL ROAD, DUDLEY

A report of the Director of Corporate Resources was submitted on an application for the review of the premises licence in respect of Supersave, 79 Russells Hall Road, Dudley.

Mr G Wintrip, Age Restricted Products Enforcement Officer, Directorate of the Urban Environment, Ms D McNulty, Office of Public Health and Ms K Turley, Planning and Licensing Officer, West Midlands Police were in attendance at the meeting.

Following introductions, it was noted that representatives from Supersave were not in attendance at the meeting.

The Licensing Clerk reminded the Sub-Committee that the application had been adjourned at a previous meeting held on 25th March, 2014 due to the non-attendance of Mr Khan, the Designated Premises Supervisor at the time of the incident.

The Licensing Clerk confirmed that all relevant paperwork, in relation to the hearing today, had been hand delivered to the premises and that the onus was on the Premises Licence Holder to ensure the Designated Premises Supervisor was present at the meeting.

The Sub-Committee was satisfied that appropriate notice had been given and determined that the meeting proceed in the absence of representatives of Supersave.

The Licensing Clerk presented the report on behalf of the Council and in doing so informed the Sub-Committee that as from 24th April, 2014, the Designated Premises Supervisor had been transferred to Mr Nameed Khan.

Mr Wintrip 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 following the sale of alcohol to a person under the age of eighteen.

Mr Wintrip informed the Sub-Committee that on 10th January, 2014, a sixteen year old female child test purchaser was sold alcohol, namely a 700ml bottle of WKD Original with 4% alcohol, from the premises contrary to section 146(1) of the Licensing Act 2003 and in direct contravention of the licensing objectives.

It was reported that the current premises licence was granted to Mr Kamran Khan on 10th October, 2013 after the previous Designated Premises Supervisor was removed following two seizures of illicit alcohol from the premises. It was also reported that Mr Khan was the Designated Premises Supervisor and held a personal licence issued by Sandwell Metropolitan Borough Council.

It was noted that on 11th October 2006, a sale of alcohol was made to an underage test purchase volunteer. The Designated Premises Supervisor at that time was a Mrs Safina Akhtar, however, following the incident, Ms Akhtar was removed and replaced by Mr Kamran Khan. It was reported that the seller, which had been confirmed not to be Ms Akhtar, had been prosecuted, however, no review of the premises licence was undertaken.

It was also noted that on 20th January, 2012, intelligence had been received from West Midlands Police that underage sales of alcohol had been taking place at the premises.

It was further noted that on 17th February, 2012, a test purchase for alcohol was conducted at the premises with no sale being made.

Mr Wintrip stated that on 24th July 2012, an advisory visit was conducted at the premises. It was reported that the purpose of the visit had been to provide advice to help prevent the underage sale of restricted products. Mr Kamran Khan, who had been 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 Khan was also provided with an advice pack relating to the sale of restricted products, an advice booklet, a challenge 25 poster, a refusals register, a poster regarding 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 that they were aware of their obligations under the Licensing Act 2003. During the course of the visit, Mr Khan signed a form to acknowledge receipt of the information pack.

On 26th September, 2012 during an inspection, an officer had found 6 x 1 litre and 11 x 70cl bottles of High Commissioner whisky together with 1 x 1 litre and 5 x 70cl bottles of Glens Vodka offered for sale at the premises. The bottles were seized as it was suspected they were counterfeit. It was reported that Mr Khan, the Premises Licence Holder at the time, had been present during the inspection and was issued with Trader's Notice 0372 as a receipt for the seized alcohol.

It was noted that a further inspection of the premises had taken place on 4th July, 2013, together with officers from West Midlands Police. During the inspection, officers had found 3 x 1 litre and 5 x 70cl bottles of High Commissioner whisky together with 2 x 1 litre and 2 x 70cl bottles of Glens Vodka offered for sale at the premises. The bottles were seized as it was suspected they were counterfeit. It was reported that Mr Hammed Khan, a relative of Mr Kamran Khan, had been present at the premises at the time and was issued with Trader's Notice 0435 as receipt for the seized alcohol. Mr Hammed was also given advice to help prevent the sale of age restricted products and signed a form to acknowledge receipt of the information.

It was reported that the manufacturer of the spirits, Glen Catrine stated "I can confirm from our records that all of the bottles are genuine but were produced with export back labels attached, i.e. the labels did not incorporate a UK Duty Stamp, as per our customer's instruction". It was further reported that the bottles had been despatched "under bond", i.e. without payment of excise duty and with the required HMRC removal warrants to their customer's bonded warehouse. The export labels had therefore been removed at some point by the counterfeiters and counterfeit UK Duty Stamp back labels applied to avoid payment of excise duty. It was noted that the cases and bottles would not have been available through the normal secure supply chain and reputable Cash and Carry outlets and indicated that such products would only have been obtained on the black market.

Mr Wintrip further informed the Sub-Committee that on 10th January, 2014, Trading Standards officers, together with the local Police Team, carried out a test purchase at the premises to determine compliance with the law on the sale of alcohol to persons under the age of eighteen. It was reported that a sixteen year old female child test purchase volunteer had purchased a 700ml bottle of WKD Blue with a 4% alcohol by volume. The seller made no attempt to ask the age of the volunteer and did not request any identification.

On returning to the premises, the individual who had sold the alcohol to the test purchase volunteer was identified as Mr Razak Khan who had stated that he was a relative of the Licensee, Mr Khan. It was believed that Mr Razak Khan was the proprietor of the business at that time.

It was reported that various age restricted posters had been seen on display, however, Mr Khan had been unable to produce a Refusals Register when asked to do so. Prior to the officer leaving the premises, a fixed Penalty Notice 00207217 was issued to Mr Khan by PC 5246 Browne.

In concluding, Mr Wintrip 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 recommendations made by Trading Standards.

Ms Turley then presented the representations of West Midlands Police and in doing so informed the Sub-Committee that the Police had made enquiries on relevant police systems and had also liaised with the local neighbourhood team. She reported that youths regularly congregated outside the premises and had received intelligence regarding underage sales of alcohol. She stated that, although there had been no direct evidence of anti-social behaviour linked to the location, she suspected, however, that local youths were aware that they may be able to purchase alcohol underage at the premises. She indicated that the West Midlands Police also fully supported the recommendations made by Trading Standards.

General concerns were made by the Sub-Committee regarding the current management, Mr Naseer Hussain's and Mr Nameed Khan's relationship to the previous management (if any) and their involvement in the business in the past.

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, 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 Supersave, 79 Russells Hall Road, Dudley:-

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 adhered to. Valid proof of identification will only include passport, photographic driving licence or a Proof of Age Standard 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 of 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 person underage, shall be refused service.

REASONS FOR DECISION

This is an application for review of the premises licence in respect of Supersave, 79 Russells Hall Road Dudley. The application was brought by Trading Standards after a test purchase was conducted on 10th January, 2014, when a 16 year old female test purchaser was sold a bottle of WKD Blue.

The member of staff who sold the alcohol was a Mr Razak Khan and he had made no attempt to ask the age of the purchaser and he was unable to produce a refusals register when asked to do so. He was issued with a Fixed Penalty Notice.

Mr Razak Khan informed officers that he was a relative of the Premises Licence Holder, Mr Kamran Khan. He was also believed to be the owner of the business. Mr Kamran Khan has only had the premises since 19th September, 2013, when it was transferred to him after a Licensing Sub-Committee removed the Designated Premises Supervisor and suspended the licence for four weeks on 10th September, 2013. This action was taken as a result of the seizure of counterfeit alcohol on 26th September, 2012.

The Premises Licence was subsequently transferred to Mr Naseer Hussain on 14th February, 2014. The current Designated Premises Supervisor is Mr Nameed Khan and he has been the Designated Premises Supervisor since 24th April, 2014.

The Premises Licence Holder, Mr Naseer Hussain and the Designated Premises Supervisor, Mr Nameed Khan did not attend the Licensing Sub-Committee today. The Sub-Committee has good reason to have concerns about the management of these premises since 2006. Today, it has not been possible to ask the Premises Licence Holder or the Designated Premises Supervisor about their relationship to previous management (if any), their involvement in the business in the past (if any) and the current ownership of the business. The Premises Licence Holder attended the hearing on 27th March, 2014 and is aware of the adjourned hearing today. Formal notice of this Sub-Committee was also hand delivered to the Premises Licence Holder. The Sub-Committee is extremely disappointed that the Designated Premises Supervisor and the Premises Licence Holder have not attended today to explain how they intend to manage the premises and remedy the failures of the past-management. In order to ensure that the licensing objectives are met, the Sub-Committee attaches the conditions recommended by Trading Standards, as set out above, to the premises licence.

The meeting ended at 11.00 am.

CHAIR