

LICENSING SUB-COMMITTEE 4

Tuesday 7th June, 2011 at 10.35 am
in the Council Chamber, The Council House, Dudley

PRESENT:-

Councillor Taylor (Chairman)
Councillors A Finch and Mrs Roberts

Officers

Mr R Clark (Legal Advisor), Mrs J Elliott (Licensing Officer) and Miss H Shepherd – All Directorate of Corporate Resources.

1 DECLARATIONS OF INTEREST

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

2 MINUTES

RESOLVED

That the minutes of the meeting of the Sub-Committee held on 19th April, 2011, be approved as a correct record and signed.

3 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 No's 7, 5, 6 and 8.

4 APPLICATION TO VARY A PREMISES LICENCE – PAINTERS ARMS, AVENUE ROAD, COSELEY

A report of the Director of Corporate Resources was submitted on an application for variation of the premises licence in respect of the Painters Arms, Avenue Road, Coseley.

Mr Watkins, the applicant, together with his representative Mr Pearce, was in attendance at the meeting.

Also in attendance was PC Dave Smith from West Midlands Police, Dolores Nellany from Environmental Health and two members of the public, all objecting to the application.

The Legal Advisor informed the Sub-Committee that since the application had been received by the Licensing Section, there had been a breach of the licensing conditions and Environmental Health was considering prosecution and was in the process of requesting the Sub-Committee to review the Premises Licence. The Sub-Committee was asked to consider whether they felt it to be in the public's interest to adjourn the application following the review of the applicants licence.

Following a brief discussion, all parties withdrew from the meeting to enable the Sub-Committee to determine whether to proceed with the application.

The Sub-Committee, having made their decision, invited parties to return and the Chairman then outlined the decision.

RESOLVED

That the application received for variation of the premises licence in respect of the Painters Arms, Avenue Road, Coseley is adjourned until after the review hearing in respect of the Premises Licence.

The Sub-Committee is aware that a premises licence review will be brought within the next 7 days and that also, a prosecution is being considered. Therefore, the Sub-Committee understands that significant information regarding these premises will be put before the Licensing Committee in the very near future. It is therefore not in the public interest to consider the variation application today when a review will be considered at which all relevant evidence and representations will be available to the Sub-Committee and all parties.

5

APPLICATION FOR SEXUAL ENTERTAINMENT VENUE LICENCE – BANDIT QUEEN GENTLEMEN'S CLUB, 93 KING STREET, DUDLEY

A report of the Director of Corporate Resources was submitted on an application for the grant of a Sexual Entertainment Venue Licence in respect of the Bandit Queen Gentlemen's Club, 93 King Street, Dudley.

Mr Dhillon, the applicant, together with his legal adviser, Mr Bytheway of Silks Solicitors, was in attendance at the meeting.

Following introductions, Mrs Elliott, Licensing Officer, presented the report on behalf of the Council.

Mr Bytheway then presented the case on behalf of the applicant, and in doing so indicated that the business had been established for five years with no complaints, and that the applicant had a good relationship with West Midlands Police.

In responding to a question from a Member, Mr Bytheway stated that only the ground floor of the property and part of the 1st floor was currently used, with the remainder of the building vacant.

Following a brief discussion, the Chairman outlined the Sub-Committee's decision.

RESOLVED

That the application received for the grant of a Sexual Entertainment Venue Licence in respect of the Bandit Queen, 93 Kings Street, Dudley, be approved.

6 APPLICATION FOR A PREMISES LICENCE – LYE DRINKS STOP, 54 HIGH STREET, LYE

A report of the Director of Corporate Resources was submitted on an application for the grant of a premises licence in respect of Lye Drinks Stop, 54 High Street, Lye.

Mr Sunner, the applicant and premises licence holder, together with Mr Harding from Licensing Trading Legal Services Ltd was in attendance at the meeting.

Also in attendance was Chris King of Trading Standards and PC Dave Smith of West Midlands Police, both objecting to the application.

Following introductions, Mrs Elliott, Licensing Officer, presented the report on behalf of the Council.

Mr King then presented the representations of Trading Standards and in doing so stated that Mr Sunner had seriously undermined two of the four licensing objectives. It was stated that Mr Sunner was the current Premises Licence holder as of 4th October 2010. On 19th March 2011, an underage test purchaser had successfully brought alcohol from the store and a fixed penalty notice was served to Ms Kang.

On the same occasion, officers noted that the layout of the property differed to the plans attached to the operating schedule for the property and that no notices regarding operation of Challenge 25 was displayed on the premises as required by the conditions on the licence. When questioned with regards to this, Mr Sunner had informed officers that notices had not been displayed as he did not know where to obtain them from and that he did not realise that changing the layout of the property would impact on the licence. It was stated that staff training had only taken place following the underage sale and at that time Mr Sunner had not completed his Level 2 Award for Designated Premises Supervisors, which was also a requirement by condition of the licence.

The Sub-Committee was also informed that Mr Sunner himself had been issued with a fixed penalty notice for selling alcohol to an underage test purchaser volunteer in September 2010, prior to the premises licence being transferred.

PC Smith then presented the representations of West Midlands Police. He stated that their concerns reflected the concerns of Trading Standards as both agencies worked in close collaboration with each other and reiterated the issues previously stated.

In concluding, PC Smith stated that if the application was granted, it was felt that the issues raised would continue at these premises.

Mr Harding then presented the case on behalf of Mr Sunner. He stated that Mr Sunner had no previous retail experience and came from a manufacturing background. He admitted that the business had developed too quickly and that fundamental conditions had been neglected, however Mr Sunner had had a major re-awakening since the issues had been identified and had now implemented some of the conditions that were agreed through mediation between himself and Trading Standards, a copy of which was circulated to Members of the Sub-Committee.

The Sub-Committee was informed that four members of staff working on the premises had now received Designated Premises Supervisors (DPS) training, copies of the certificates was circulated to members of the Sub-Committee together with copies of the refusal registers and evidence proving the conditions had been implied.

Mr Harding stated that Mr Sunner had signed a 15 year lease for the premises and was in for the long haul.

Arising from a question raised by a Member, Mr Sunner confirmed that the DPS training undertaken was a one day training course, recommended by Trading Standards.

In response to a question raised, Mr Sunner identified to the Sub-Committee on the plan where the partitioning wall, which had previously been removed and reinstated, was situated. In doing so he stated that the removal of the wall would help him manage the premises more easily and enhance his business.

Mr Harding informed the Sub-Committee that Mr Bains, who was anticipated could become the new DPS of the premises, had more experience in the retail business. He had worked at the premises from September 2010 and held his own personal licence.

Following discussions, Mr Sunner indicated to the Sub-Committee, if the application was to be granted, where the new cash register and alcohol would be positioned and stated that it would be converted back to the stores original layout.

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 Legal Advisor then outlined the decision.

RESOLVED

That the application for the grant of a premises licence in respect of Lye Drinks Stop, 54 High Street, Lye be refused.

This is an application for a new premises licence by Mr M S Sunner, who took ownership of the off-licence in August 2010, took transfer of the premises licence on 3rd September 2010 and made this application on 31st March 2011.

Mr Sunner received a fixed penalty notice for sale of under age alcohol before 3rd September 2010 and Ms Kang received a fixed penalty notice on 19th March 2011 for a similar offence.

Mr Sunner has stated that he is to appoint a new Designated Premises Supervisor, Mr M Bains, and he has very recently implemented an agreed set of operating conditions which will ensue future compliance with licensing conditions.

He however accepts that he took on a large retail business too quickly and lost control of many of the regulatory requirements of operating a premises licence. He accepts that the sales took place, that he failed to display correct notices and removed the premises dividing wall without taking advice.

The Sub-Committee notes that the breaches of licence took place when the premises were much smaller than those now proposed, and that the new proposed DPS has been part of the staffing team from the beginning, for the period when the breaches have occurred. Mr Sunner does not convince the Sub-Committee that the very recent improvements which he puts forward today have been embedded or that a sufficient explanation has been given as to why two under age sales took place, with both Mr Sunner and Mr Bains being the business partners, and with the last sale being so recent. The larger premises will only make safe sale and supervision of alcohol more difficult. The Sub-Committee is not satisfied that the refusal book reflects a rigorous approach to recording checks and refusals and after the first entry provides very little information. This is one example upon which the Sub-Committee bases its concerns that these changes are very new and have not been fully embedded as part of store procedure, and the Sub-Committee is not satisfied that children and young persons safety will be protected.

The meeting ended at 1.10 pm

CHAIRMAN