

Minutes of the Licensing Sub-Committee 1

Tuesday 12th May, 2015 at 10.05 am
in the Council Chamber, The Council House, Dudley

Present:-

Councillor D Russell (Chair)
Councillors C Perks and H Turner

Officers:-

R Clark (Legal Advisor), L Rouse (Licensing Clerk) and K Taylor (Democratic Services Officer) – All Directorate of Resources and Transformation.

24 **Apology for Absence**

An apology for absence from the meeting was submitted on behalf of Councillor D Blood.

25 **Appointment of Substitute Member**

It was noted that Councillor H Turner had been appointed as a substitute member for Councillor D Blood, for this meeting of the Sub-Committee only.

26 **Declarations of Interest**

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

27 **Minutes**

Resolved

That the minutes of the meeting of the Sub-Committee held on 14th April, 2015, be approved as a correct record and signed.

28 **Application for Review of Premises Licence – Pedmore (Londis) Store, 54 Chawn Park Drive, Stourbridge**

A report of the Strategic Director (Resources and Transformation) was submitted on an application for a review of the premises licence in respect of the premises known as Pedmore (Londis) Store, 54 Chawn Park Drive, Stourbridge.

Mrs K Patel (Premises Licence Holder and Designated Premises Supervisor) was in attendance at the meeting.

Also in attendance were G Wintrip, Age Restricted Products Enforcement Officer, (Directorate of Place), Ms D McNulty, Office of Public Health and PC A Baldwin, Planning and Licensing Officer, West Midlands Police.

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

Mr G Wintrip then presented the representations of Trading Standards and in doing so highlighted that the grounds of 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 underage sale of alcohol.

Mr Wintrip informed the Sub-Committee that on 30th January, 2015, a sixteen year old male was sold alcohol from the premises contrary to section 146(1) of the Licensing Act 2003 and in direct contravention to the licensing objectives.

On 19th February, 2013, an officer from Trading Standards carried out a visit to the premises and spoke to Mrs Patel. The purpose of the visit was to provide advice in relation to preventing underage sales of age restricted products, and Mrs Patel was given detailed advice including information in respect of acceptable proof of age and the importance of keeping a refusals register. Mrs Patel was 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. She was also requested 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; Mrs Patel also signed an ARP form 0799 to acknowledge receipt of the information pack during the visit.

It was noted that on 13th June, 2014, an alcohol test purchase exercise had been undertaken at the premises which did not result in a sale being made.

Mr Wintrip further stated that on 30th January, 2015, Trading Standards together with West Midlands Police, carried out a test purchase exercise which was part of an ongoing series of test purchase exercises to test compliance once a premises had been advised. On that occasion, a sixteen year old male child test purchase volunteer purchased a bottle of Thatchers Gold Cider with 4.8% 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 visited the premises, it was discovered that the individual who sold the alcohol to the male had been a Mr P Zala, who stated that he was the husband of Mrs Patel. When cautioned and informed that he had sold alcohol to a sixteen year old child he replied "The big lad, fat, not sure".

On inspection of the premises, it was noted that there were age restricted product literature displayed, however there was no 'Challenge 25' policy in place. Mr Zala was then issued with a Fixed Penalty Notice.

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 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 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 any actions to prevent the sale of alcohol to a young person on the grounds of protecting children from harm.

Mrs Patel then presented her case, and in doing so stated that she was very sorry and that her husband, Mr Zala, should have requested identification. She assured the Committee that the incident would not be repeated.

Following a request by a Member, Mrs Patel circulated the Refusals Register, and stated that when she questioned Mr Zala regarding the sale of alcohol, Mr Zala responded that he thought the volunteer looked older. Mrs Patel confirmed that she had reminded Mr Zala of the importance of requesting identification.

In responding to a question by Mr Wintrip in relation to the training undertaken by staff, Mrs Patel confirmed that she had trained Mr Zala to always request identification, and to refuse service to those suspected of purchasing alcohol for children.

It was noted that the staff working at the premises were Mrs Patel and Mr Zala only, therefore Mr Zala was unable to attend the hearing today as he was working at the premises.

In responding to a question by a Member, Mrs Patel confirmed that she worked at the premises during the afternoon, whilst Mr Zala worked at the premises during the morning. She then referred to the comments made by Mr Wintrip in that the Refusals Register could not be located at the time of the test purchase exercise, and stated that the register was usually located near the lottery tickets. Concerns were raised about the legality of the refusals register as Mr Wintrip's signature was not evident in order to authorise the register, and the signatures were not correctly completed.

Mrs Patel further confirmed that the premises operated a 'Challenge 18' policy and that CCTV had been installed at the premises and was able to record footage for one month.

In responding to a question by a Member in relation to training, Mr Wintrip confirmed that there were external agencies that provided training; however there were training materials available online that included a written test. He also highlighted the importance of keeping a record of the training to evidence that training had been undertaken.

The Legal Advisor made reference to the Refusals Register, in particular, that there were no refusals between February, 2013 and January, 2014, and that the register submitted today had not been authorised by Mr Wintrip. In responding, Mrs Patel stated that there had been no refusals during that period and that the original refusals register provided by Mr Wintrip was misplaced.

In responding to a question by the Chair, Mrs Patel confirmed that she was in agreement with the conditions suggested by Trading Standards.

In summing up, Mr Wintrip stated that there had been no previous complaints in relation to the premises, however Mr Zala failed to request identification on 30th January, 2015, which resulted in a sale of alcohol to an under aged person, therefore the premises was not managed properly at that time.

In summing up, Mrs Patel stated that she was very sorry and assured the Sub-Committee that it would not happen again.

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 Pedmore (Londis) Store, 54 Chawn Park Drive, Stourbridge :-

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 person under the age of 18, shall be refused service.

Reasons for Decision

This is an application for the review of a premises license, brought by Trading Standards, as the result of an alcohol test purchase exercise conducted on 30th January 2015, in which a 16 year old test purchaser was sold a bottle of Thatches Gold Cider. The husband of the Premises Licence Holder, Mr. Zala, made the sale and was cautioned and issued a fixed penalty notice. He made no comment about the sale, except to ask if the sale was to “the big fat lad?”

The Premises License Holder is Mrs Kusum Patel. She is also the Designated Premises Supervisor. The premises licence holder attended today unrepresented. She stated that her husband had made a mistake in making the sale, and that he should have asked for ID. Apparently, her husband thought that the 16 year old looked like an adult, and therefore he did not ask for ID or proof of age. Mrs Patel confirmed that only she and her husband worked in the shop and that she had given him training in the sale of age restricted products. Mr Zala was not able to produce the refusals register on 30th January but Mrs Patel stated that the register was on the counter next to the lottery tickets. She produced a register today which only had entries (9) from January 2014 to May 2015 and her evidence was that there had been no refusals before that date. She could not say where the register given to the premises in February 2013 was. The entries were not correctly completed. She also explained that she operated a challenge 18 policy rather than a challenge 25 policy.

The review is brought on the grounds that the licensing objectives of prevention of crime and disorder and protection of children from harm have been contravened.

Advice on the sale of age restricted products has been given to the business since at least February 2013 and an alcohol test purchase in June 2014 resulted in no sale.

Trading Standards have put forward a number of conditions that, if it is submitted, will address the failures in the management of the premises. Mrs Patel confirmed that she had no issues with these proposed conditions.

The Sub-Committee finds that although there is evidence of only one under age sale from the premises, the refusals register has not been completed consistently or correctly, and that the test purchase exercise has highlighted both this poor practice and a lack of training for Mr. Zala. The Sub-Committee therefore takes the step of imposing the conditions recommended by Trading Standards upon the Premises Licenses.

Mrs Patel was informed of her right to appeal the decision of the Sub-Committee.

29

Application for Review of Premises Licence – Fletchers Drinks, 31 Drew Road, Pedmore, Stourbridge

A report of the Strategic Director (Resources and Transformation) was submitted on an application for a review of the premises licence in respect of the premises known as Fletchers Drinks, 31 Drew Road, Pedmore, Stourbridge.

Mrs S Kaur (Premises Licence Holder) was in attendance at the meeting, together with Mr C Gill (Designated Premises Supervisor), and Mr A Gill (Employee).

Also in attendance were G Wintrip, Age Restricted Products Enforcement Officer, (Directorate of Place), Ms D McNulty, Office of Public Health and PC A Baldwin, Planning and Licensing Officer, West Midlands Police.

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

Mr Wintrip then presented the representations of Trading Standards and in doing so highlighted that the grounds of 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 underage sale of alcohol.

Mr Wintrip informed the Sub-Committee that on 30th January, 2015, a sixteen year old male was sold alcohol from the premises contrary to section 146(1) of the Licensing Act 2003 and in direct contravention to the licensing objectives.

It was noted that Mr G Gill was the joint premises licence holder.

On 19th February, 2013, an officer from Trading Standards carried out a visit to the premises and spoke to Mr K Gill, who stated that he was the premises licence holder. The purpose of the visit was to provide advice in relation to preventing underage sales of age restricted products, and Mr Gill was given detailed advice including information in respect of acceptable proof of age and the importance of keeping a refusals register. Mr Gill was 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. He was also requested 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, and also signed an ARP form 0801 to acknowledge receipt of the information pack during the visit.

It was noted that on 13th June, 2014, an alcohol test purchase exercise had been undertaken at the premises which did not result in a sale being made.

Mr Wintrip further stated that on 30th January, 2015, Trading Standards together with West Midlands Police, carried out a test purchase exercise which was part of an ongoing series of test purchase exercises to test compliance once a premises had been advised. On that occasion, a sixteen year old male child test purchase volunteer purchased a bottle of Magners Cider with 4.5% 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 visited the premises, it was discovered that the individual who sold the alcohol to the male had been a Mr A Gill, and when cautioned and informed that he had sold alcohol to a sixteen year old child he made no reply.

On inspection of the premises, it was noted that there were age restricted product literature displayed, 'Challenge 25' policy advertised, and an EPOS system implemented. Mr Gill produced the refusals register which showed the last entry dated 25th July, 2011. Mr Gill was then issued with a Fixed Penalty Notice.

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 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 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 any actions to prevent the sale of alcohol to a young person on the grounds of protecting children from harm.

In responding to the representations made, Mr A Gill stated that once cautioned he was apologetic and that the sale had been a result of misjudgement, and then circulated the refusals register to the Sub-Committee.

In responding to a question by a Member in relation to the lack of entries on the refusals register since 2011, Mr C Gill stated that it was very rare for children to enter the premises as the premises did not sell sweets and that staff members regularly requested identification, which deterred children from attempting to purchase alcohol. He stated that he would not be prepared to enter false refusals on the register.

It was noted that the premises was a family business and Mr C Gill, Mr A Gill and Mrs Kaur worked at the premises.

Reference was made to the EPOS system installed in the register, however it was noted that there was not a prompt for age restricted products, but to monitor stock.

In responding to a question by Mr Wintrip in relation to the training undertaken by staff members, Mr A Gill confirmed that he had been told to request identification if any persons appeared to be under 25, and that he also held a personal licence.

Mr C Gill confirmed that the newsagents located next door to the premises did not sell alcohol and that both premises closed at 9 pm.

Reference was made to the conditions suggested by Trading Standards should the Sub-Committee be minded not to revoke or suspend the licence, and Mr C Gill confirmed that CCTV had been installed at the premises and recorded movements detected by the CCTV for a minimum of 7 days, and that he was in agreement with the conditions as the majority were already complied with.

In summing up, Mr Wintrip stated that the majority of the conditions were already implemented at the premises, however certain areas needed addressing as they were not complied with during the sale of alcohol to an under aged person.

In summing up, Mr A Gill apologised for his misjudgement and assured the Sub-Committee that the incident would not be repeated.

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 Fletchers Drinks, Drew Road, Pedmore, Stourbridge :-

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 person under the age of 18, shall be refused service.

Reasons for Decision

This is an application for a review of the premises licence for Fletchers Drinks, brought by Trading Standards, further to a test purchase exercise conducted on 30th January 2015, when a 16 year old test purchaser was sold a bottle of Magners cider. It is reported that the seller made no attempt to ask for proof of age or ID and was identified as Mr Amarpal Gill (25/07/91). He was able to produce a refusals register but the last recorded refusal was dated 25th July 2011. He was issued with a fixed penalty notice.

The joint Premises License Holders are Mr G Gill a Mrs Sheila Kaur. The Designated Premises Supervisor is Mr C S Gill. Mrs Kaur and Mr C S Gill attended today and were not represented. Mr Amarpal Gill also attended.

The review is brought on the grounds that the licensing objectives of prevention of crime and disorder and protection of children from harm have been contravened.

The premises has been provided with information on the sale of age restricted products since at least February 2013, and an alcohol test purchase conducted on 13th June 2014 resulted in no sale.

Mr Amrapal explained today that he thought the test purchaser looked over 18, and stated that he did apologise numerous times for the sale, despite the report from Trading Standards that he made, "no comment". Mr C S Gill stated that very few children come into the store as it does not stock children's sweets, and that after initial checks for ID and refusals, children have ceased coming into the store since 2011 (with the exception of the June 2014 test purchase) . Mr. Amarpal does hold a personal license.

Trading Standards have put forward a number of conditions that, if it is submitted, will address the failures in the management of the premises. The Sub-Committee therefore takes the step of imposing the conditions recommended by Trading Standards upon the premises license. Mr C S Gill stated that most of the conditions are being complied with in any event, and that they are content for these to be imposed on the premises license.

Mrs Kaur was informed of her right to appeal the decision of the Sub-Committee.

At this juncture, the Sub-Committee adjourned the meeting at 12 noon and resumed at 1.00 pm.

30 **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 8, 7 and 9

31 **Application for Review of Premises Licence – Costcutter, 135 High Street, Pensnett, Brierley Hill**

A report of the Strategic Director (Resources and Transformation) was submitted on an application for a review of the premises licence in respect of the premises known as Costcutter, 135 High Street Pensnett, Brierley Hill.

Mr H S Bhandal (Premises Licence Holder and Designated Premises Supervisor) was in attendance at the meeting.

Also in attendance were G Wintrip, Age Restricted Products Enforcement Officer, (Directorate of Place), Ms D McNulty, Office of Public Health and PC A Baldwin, Planning and Licensing Officer, West Midlands Police.

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

Mr Wintrip then presented the representations of Trading Standards and in doing so highlighted that the grounds of 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 underage sale of alcohol.

Mr Wintrip informed the Sub-Committee that on 18th February, 2015, a fourteen year old male test purchaser was sold alcohol from the premises contrary to section 146(1) of the Licensing Act 2003 and in direct contravention to the licensing objectives.

On 14th August, 2012, an officer from Trading Standards carried out an advisory visit to the premises and spoke to Mr Bhandal. The purpose of the visit was to provide advice in relation to preventing underage sales of age restricted products, and Mr Bhandal was given detailed advice including information in respect of acceptable proof of age and the importance of keeping a refusals register. Mr Bhandal was 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. He was also requested 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, and also signed an ARP form 0555 to acknowledge receipt of the information pack during the visit.

On 29th May, 2014, a further advisory visit was undertaken at the premises and the officer spoke to Mr Bhandal, who was present at the premises. The purpose of the visit was to provide further advice in relation to preventing underage sales of age restricted products, and Mr Bhandal signed an ARP form 01130 to acknowledge that the visit had taken place. The officer left a No ID, No Sale pack that contained further age restricted products literature including a refusals register.

It was noted that on 20th June, 2014, a tobacco test purchase exercise had been undertaken at the premises which did not result in a sale being made.

Mr Wintrip further stated that on 18th February, 2015, Trading Standards together with West Midlands Police, carried out a test purchase exercise which was part of an ongoing series of test purchase exercises to test compliance once a premises had been advised. On that occasion, a fourteen year old male child test purchase volunteer purchased a bottle of Marstons EPA beer with 3.6% 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 visited the premises, it was discovered that the individual who sold the alcohol to the male had been a Mr A Singh. When cautioned and informed that he had sold alcohol to a fourteen year old child, Mr Singh stated that he was standing in for his son who had been taken ill.

On inspection of the premises, it was noted that there were age restricted product literature displayed and a 'Challenge 25' policy advertised. Mr Singh was unable to produce the refusals register when requested to do so. Mr Singh was then issued with a Fixed Penalty Notice on 26th February, 2015.

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 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 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 any actions to prevent the sale of alcohol to a young person on the grounds of protecting children from harm.

Mr Bhandal then presented his case and in doing so stated that he understood the dangers of alcohol and that his father had worked at the premises as there was nobody available. He stated that his father would no longer work at the premises.

It was noted that Mr Bhandal together with his wife and mother worked at the premises.

In responding to a question by Mr Wintrip in relation to training received by the family, Mr Bhandal confirmed that excluding himself, no formal training had been provided, however he operated a 'challenge 25' policy and requested driving licences or passports as proof of identification.

Following the representations of trading standards, in particular, in relation to the refusals register not being located on 18th February, 2015, Mr Bhandal admitted that he did not complete a refusals register but regularly requested identification, in particular to new customers. He further stated that officers from Environmental Health had visited the premises earlier today, and acknowledged that Mr Bhandal had to improve his paperwork.

It was noted that Mr Bhandal had not brought the refusals register to submit to the Sub-Committee.

In responding to a question by the Chair, Mr Bhandal confirmed that he had extensive CCTV installed at the premises, which recorded movements detected over a seven day period. In responding to a comment made regarding other premises that recorded their CCTV for a period of 28 days, Mr Bhandal stated that in order for him to record for that period, he would be required to shut down a number of his cameras, as there were 40 cameras currently installed due to the layout of the premises.

In responding to a question by the Legal Advisor, Mr Bhandal confirmed that he would adhere to the conditions suggested by Trading Standards, should the Sub-Committee deem it necessary, however he was concerned about the conditions specifically relating to CCTV in view of his existing arrangement regarding CCTV. Following discussions the Legal Advisor stated that the primary concern of the Sub-Committee related to the sale of age restricted products, and informed Mr Bhandal that it was his choice as to which cameras to shut down, however it would be beneficial for the CCTV footage to be recorded for a period of 28 days.

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 Costcutter, 135 High Street, Pensnett, Brierley Hill :-

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 person under the age of 18, shall be refused service.

Reasons for Decision

This is a review of a premises license brought by Trading Standards, further to a test purchase exercise conducted on 18th February 2015, in which a 14 year old test purchaser was sold a bottle of Marstons beer. The seller was Mr Singh, the father of the Premises Licence Holder. He was cautioned but claimed that he was standing in for his son who was ill. He was issued with a fixed penalty notice on 26th February, 2015. He was unable to produce the register of refusals.

The Premises License Holder is Mr Harjit Singh Bhandal who is also the Designated Premises Supervisor. The Premises Licence Holder today is not represented.

The review is brought on the grounds that the licensing objectives of prevention of crime and disorder and protection of children from harm have been contravened.

The premises have been provided with information on the sale of age restricted products in August 2012, and again in 2014. On 20/06/14 a tobacco test purchase was conducted but no sale was made.

Mr. Bhandal today stated that he did make a mistake and that his father was not usually employed in the shop but there was no cover available on this occasion. His wife and mother do work in the shop, and the only training delivered to them is through him in relation to sale of restricted products.

Mr. Bhandal confirmed that he did not keep the register up to date because they ask for ID most times a new customer comes into the store (unless they are very clearly of age). Therefore, he did not bring a refusal register with him. He also confirmed that his CCTV only recorded for about 7 days.

Trading Standards have put forward a number of conditions that, it is submitted, will address the failures in the management of the premises and in particular, the lack of a refusals register, the lack of training to his father on 18th February 2015 and the short recording period of his CCTV. Mr. Bhandal does not object to the imposition of these conditions

The Sub-Committee takes the step of imposing all of the recommended conditions upon the premises license in order to ensure that the premises are managed in a way that supports the licensing objectives.

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

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Application for Review of Premises Licence – Londis, 39 Nith Place, Dudley

A report of the Strategic Director (Resources and Transformation) was submitted on an application for a review of the premises licence in respect of the premises known as Londis, 39 Nith Place, Dudley.

Mrs S Rai (Premises Licence Holder and Designated Premises Supervisor) was in attendance at the meeting, together with Mrs S Davies (Employee).

Also in attendance were G Wintrip, Age Restricted Products Enforcement Officer, (Directorate of Place), Ms D McNulty, Office of Public Health and PC A Baldwin, Planning and Licensing Officer, West Midlands Police. Councillor D Branwood was also in attendance as an observer.

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

Mr Wintrip then presented the representations of Trading Standards and in doing so highlighted that the grounds of 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 underage sale of alcohol.

Mr Wintrip informed the Sub-Committee that on 4th March, 2015, a fifteen year old and fourteen year old were sold alcohol from the premises contrary to section 146(1) of the Licensing Act 2003 and in direct contravention to the licensing objectives.

On 25th August, 2011, an officer from Trading Standards carried out an advisory visit to the premises and spoke to Mrs Rai. The purpose of the visit was to provide detailed information concerning the law relating to Age Restricted Products. Mrs Rai also signed an ARP form 0492 to acknowledge receipt of the information pack during the visit.

It was noted that on 12th October, 2012, a tobacco test purchase exercise had been undertaken at the premises which did not result in a sale being made.

On 15th November, 2012, a further advisory visit was undertaken at the premises and a Ms S Davies, a shop assistant at the premises was spoken to. The purpose of the visit was to provide advice in relation to preventing underage sales of age restricted products, and Ms Davies was given detailed advice including information in respect of acceptable proof of age and the importance of keeping a refusals register. Ms Davies was 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. Ms Davies also signed an ARP form 0724 to acknowledge receipt of the information pack during the visit.

It was noted that on 23rd November, 2012, an alcohol test purchase was conducted at the premises which did not result in a sale being made.

On 8th November, 2013, a yearly advisory visit was made to the premises, the purpose of the visit was to provide advice in relation to preventing underage sales of age restricted products, and Ms Davies was given detailed advice including information in respect of acceptable proof of age and the importance of keeping a refusals register. Ms Davies was 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. She was also requested 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; Ms Davies also signed an ARP form 0801 to acknowledge receipt of the information pack during the visit.

It was noted that on 3rd October, 2014, a tobacco test purchase exercise had been undertaken at the premises which did not result in a sale being made.

Mr Wintrip further stated that on 4th March, 2015, Trading Standards together with West Midlands Police, carried out a test purchase exercise which was part of an ongoing series of test purchase exercises to test compliance once a premises had been advised. On that occasion, a fifteen and fourteen year old child test purchase volunteers purchased four cans of Tennents Super Lager with 9% 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 visited the premises, it was discovered that the individual who sold the alcohol to the volunteers had been a Mr D Rai, who was the husband of Mrs Rai. When cautioned and informed that he had sold alcohol to fifteen and fourteen year old children he made no reply.

On inspection of the premises, it was noted that there were age restricted product literature displayed and a 'Challenge 25' policy advertised. It was noted that the refusals register was examined and showed that the last entry dated 2nd March, 2015.

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 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 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 any actions to prevent the sale of alcohol to a young person on the grounds of protecting children from harm.

Mrs Rai then presented her case and in doing so stated that she cared about her business and the community and understood the complications caused from children drinking alcohol. She further stated that her husband apologised for the incident and admitted that he was wrong, and although she had removed the facility of the register prompt, whilst selling age restricted products, this was currently being reviewed. It was noted that there was currently a reminder displayed by the register, to aid members of staff in calculating the age of customers that required identification.

Ms Davies also stated that Mrs Rai had operated the premises for seventeen years and had no complaints or issues from within the community.

Following a request by the Chair, Mrs Rai circulated the refusals register to members of the Sub-Committee.

In responding to a question by Mr Wintrip, Mrs Rai confirmed that there were three employees at the premises and that she had provided in-store training.

Reference was made to the conditions suggested by Trading Standards should the Sub-Committee be minded not to revoke or suspend the licence, and Mrs Rai confirmed that CCTV had been installed at the premises, and that she was in agreement with the conditions as the majority were already complied with.

In summing up, Mr Wintrip stated that there were no concerns with the premises, however the premises was not managed properly during 4th March, 2015 which resulted in the sale of strong lager to two under aged persons.

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 no further action to be taken in relation to the review of the premises licence in respect of Londis, 39 Nith Place, Dudley.

Reasons for Decision

This is an application for a review of a premises licence, brought by Trading Standards, following a test purchase exercise on 4th March 2015. Two child test purchasers aged 15 and 14, were sold 4 cans of Tennents Super larger. The seller (Mr. Daljit Rai (08/09/77)) is the husband of the Premises Licence Holder and he was cautioned and issued with a fixed penalty notice. He is reported to have made no request for proof of age or ID, and made no comment when asked about the sale. The refusals register was available and up to date.

The review is brought on the grounds that the licensing objectives of prevention of crime and disorder and protection of children from harm have been contravened.

The premises license holder is Mrs Sarbjit Rai and she is also the Designated Premises Supervisor. She attended the review today with Sue Davies who works in the shop.

Advice on the sale of age restricted products has been given to the business since at least August 2011 and test purchases for tobacco in October 2012 and October 2014 and for alcohol in November 2012 resulted in no sales being made.

Mrs Rai stated that she took her business very seriously, and that her husband admitted that he made a mistake, and had apologised. Mr Wintrip confirmed that Mr Rai admitted to being distracted by a salesman at the time of the sale. The EPOS system was in place for the lottery tickets but had been taken off for the sale of alcohol. She confirmed that all staff had had in-store training, given by herself.

Trading Standards have put forward a number of conditions that, it is submitted, might address the failures in the management of the premises. Mrs Rai has stated that the EPOS is to be reinstalled on the till for alcohol products. Therefore the committee decides that the step of imposing the recommended conditions upon the premises license, is not necessary in order to ensure that the licensing objectives are upheld. It is satisfied that this sale, was a one-off mistake, and that Mrs Rai will not allow this mistake to be made again.

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Application for a Premises Licence – Straits News and Wine, 114 The Straits, Dudley

A report of the Strategic Director (Resources and Transformation) was submitted on an application for the grant of a premises licence in respect of the premises known as Straits News and Wine, 114 The Straits, Dudley.

Mr M Arulampalam, Applicant, was in attendance at the meeting, together with his representative, Mr P Burke.

Also in attendance and objecting to the application was Councillor D Branwood (Ward Member).

Following introductions by the Chair, the Licensing Clerk presented the report on behalf of the Council. It was noted that objections had been received from eighteen residents and two elected members, together with a letter of support from a local resident.

It was further noted that the application was due to be considered on 14th April, 2015, however the Sub-Committee resolved that the application be deferred to enable the applicant to seek legal advice in reference to the purported covenant affecting the premises. Following the meeting, the applicant sought legal advice and requested that the application be re-considered by the Sub-Committee.

Councillor Branwood then presented his representations and in doing so stated that he was in attendance today as a Ward Councillor and a local resident, and the primary concern amongst the estate related to potential anti-social behaviour in a quiet area. He stated that the area had been built in the 1950's and had survived successfully without an off-licence, and that the majority of residents in the area were elderly.

Councillor Branwood reported that the concerns of the residents related to children hanging around the streets and an increase in litter, however he acknowledged that as this application was new there was no evidence to support the fear and worry of the residents.

Reference was made to the requested licensing hours submitted, and Councillor Branwood proposed that in view of the neighbouring shops closing at 6 pm, that it would be reasonable to amend the hours requested to 6 pm in order to address the concerns of the local residents.

Mr Burke then presented the case on behalf of the applicant, and in doing so stated that the premises was purchased in February, 2015, and had previously operated as a post office. He further reported that the applicant also owned an off-licence with no issues or complaints.

Mr Burke then made reference to the objections submitted by local residents and stated that the concerns raised in relation to litter had been addressed within the operating schedule submitted, and complaints regarding noise nuisance from power tools would no longer be relevant as the noise occurred during the refurbishment of the premises. He also stated that no other authorities, such as Environmental Health and West Midlands Police, had submitted objections to the application.

Following the proposed reduction in licensing hours by Councillor Branwood, Mr Burke stated that Mr Arulampalam would be agreeable to a reduction to 7 pm, as the business needed to be viable.

Mr Burke requested that the Sub-Committee should consider the evidence presented and not the speculation referenced in the objections submitted by the residents.

In responding to a question by the Chair, Mr Burke confirmed that the premises would remain open in accordance with the licensing hours. Mr Arulampalam also confirmed that there would be two members of staff employed at the premises, including his wife, and that both were personal licence holders. He further stated that he operated a 'challenge 25' policy at his other business and installed CCTV to record footage for one month, and an EPOS system.

In summing up, Councillor Branwood thanked the Sub-Committee for considering the objections submitted, and stated that the proposed reduction in licensing hours to 6pm was a good compromise, which the residents would be content with.

In summing up, Mr Burke on behalf of the applicant, stated that the premises was previously a post office, and that Mr Arulampalam required the business to be successful and stated that the proposed reduction of licensing hours to 7pm was a fairer compromise.

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 the grant of a premises licence in respect of Straits News and Wine, 114 The Straits, Dudley, be approved, in the following terms: -

Sale of Alcohol

Monday – Sunday inc 07.00 – 19.00

Reasons for Decision

This is an application for a premises licence, brought by Mr. Manoharan Arulampalam, dated 18th February 2015. The application was adjourned from 14th April 2015 to enable the applicant to take advice on the potential impact of the restrictive covenant relating to the prohibition of the sale of alcohol from premises on the estate, on his application.

Mr. Burke attended today to represent the applicant.

Councillor Branwood attended to present the representations of the residents local to Straits News. No residents, who had previously made representations and some of whom attended sub-committee on 14th April 2015, attended committee today.

Representations from residents centre on concerns of likely anti-social behaviour in a very quiet area, with a high percentage of more elderly residents. Over 500 persons had signed a petition against granting a premises license, and it was suggested that the premises license could reasonably be granted to 6pm. The petition was however collected after the closure of the statutory period for representations. Mr. Burke stated that the applicant had taken over a previous post office in February 2015, and has refurbished the premises.

There have been no representations from any responsible authority. Local residents have expressed concern about the likelihood of youths gathering, the possibility of crime and anti-social behaviour, the possibility of increased litter, historical problems in the area, noise from the shop due to power tools (during refurbishment), the number of other licensed premises in the area and the number of open spaces in the area which will attract more litter and gathering of young persons.

The applicant submits today that these concerns all relate to the likelihood of antisocial behaviour or crime or youths gathering, and that these concerns amount to speculation. The application states that litter bins will be provided and that the applicant will be responsible for emptying these. The premises will be run by the applicant and his wife, who are both personal license holders, and that CCTV will be on the premises recording for one month. The shop till has the EPOS system fitted. He submitted that the noise of power tools was during the refurbishment only, and that that noise would not be continuing.

The application for licensing hours is from 7:00am until 9:00pm but the applicant today has stated that he would be prepared to accept a premises licence to 7pm (rather than 9pm) 7 days a week.

The Sub-Committee has considered all of the evidence upon this new application, and agrees that the concerns of residents are largely about fears as to what might happen if the license were granted and are not based on actual crime, disorder, littering or anti-social behaviour caused by these premises. The police have not raised concerns about these issues in the area, and no other responsible authority has made representations. The applicant has, hearing the concerns of the local residents, accepted that reasonable licensing hours would be from 7:00am to 7:00pm, and has therefore amended his original application from 9:00pm. The sub-committee finds that this is a very reasonable approach, based on the concerns of the community.

The Sub-Committee therefore grants the application for a premises licence but on the hours of 7:00am to 7:00pm seven days a week.

The meeting ended at 4.20 pm

CHAIR