

LICENSING SUB-COMMITTEE 3

Tuesday 16th July, 2013 at 10.05 am
in The Council Chamber, The Council House, Dudley

PRESENT:-

Councillor K Finch (Chair)
Councillors Sykes and Perks

Officers

Mr R Clark (Legal Advisor), Mr T Parkes (Licensing Clerk) and Miss L Taylor (Directorate of Corporate Resources).

1. APOLOGY FOR ABSENCE

An apology for absence from the meeting was submitted on behalf of Councillor Mrs Ameson.

2. APPOINTMENT OF SUBSTITUTE MEMBER

It was noted that Councillor Perks was serving as a substitute member for Councillor Mrs Ameson for this meeting of the Sub-Committee only.

3. DECLARATIONS OF INTEREST

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

4. MINUTES

RESOLVED

That, the minutes of the meeting held on 15th January, 2013, be approved as a correct record and signed.

5. APPLICATION FOR REVIEW OF PREMISES LICENCE – HARVESTIME GENERAL STORES, 35/37 LANGLAND DRIVE, SEDGLEY

A report of the Director of Corporate Resources was submitted on an application for the review of the premises licence in respect of Harvestime General Stores, 35/37 Langland Drive, Sedgley.

Mr Harpreet Sangarah, Designated Premises Supervisor, and Mr Randeep Sangarah, Premises Licence Holder were both in attendance, along with Mr John Edwards, Solicitor.

Also in attendance were Mr C King, Principal Trading Standards Officer, and Mr G Wintrip, Age Restricted Products Officer, both from the Directorate of the Urban Environment, Ms Natalie Lees and Ms Amanda Baldwin both Licencing Officers of West Midlands Police Authority and Ms D McNulty, Dudley Public Health.

Mr T Parkes, Enforcement Officer, Directorate of Corporate Resources, presented the report on behalf of the Council.

Mr King presented the representations of Trading Standards and in doing so highlighted that the grounds for the review had been based on the undermining of the two licencing objectives, namely, the prevention of crime and disorder and the protection of children from harm.

Mr King informed the Sub-Committee that on 24th April, 2013, a sixteen year old child test purchaser had been sold alcohol from the premises by a Mr Randeep Sangarah, the Premises License Holder.

On the 21st March, 2013, officers from Dudley Trading Standards carried out a visit to the premises and spoke to Miss Gemma Jones, a shop assistant at the premises.

At the time neither Mr Harpreet or Randeep Sangarah were present at the premises.

The purpose of the visit was to provide advice about preventing underage sales of age restricted products. Miss Jones was given detailed advice including information about acceptable proof of age and the importance of keeping a refusals register. Miss Jones was given an advice pack relating to the sale of age restricted products and was asked to ensure that it was brought to the attention of Harpreet and Randeep Sangarah to ensure that all staff were aware of their obligations under the Licensing Act 2003. The pack contained an advice booklet, a proof age of age poster and a sample PASS (proof of age) card. Ms Jones signed ARP form 0825 to acknowledge receipt of the pack.

It was confirmed that it was Mr Randeep Sangarah who served the test purchaser. Mr R Sangarah was issued with a Fixed Penalty Notice.

On inspection of the premises it was established that there were age restricted products posters on display including "Challenge 25", however Mr R Sangarah was unable to produce the Refusals Register when asked to do so.

In concluding, Mr King stated that should the Sub-Committee be minded not to revoke or suspend the premises licence, they could consider including additional conditions to the licence. A full list of the proposed additional conditions had been circulated to all parties prior to the meeting.

Ms N Lees highlighted representations made by the West Midlands Police Authority, and in doing so explained that there had been no information or intelligence of drink related anti-social behaviour in the area.

In presenting the case on behalf of Mr Harpreet and Randeep Sangarah, Mr Edwards explained that the shop usually works to a high standard in relation to age restrictions, and have adjusted their opening times to 8.00pm to aid in lowering late night drinking and undesirable behaviour.

Mr Edwards, acknowledged and accepted the report presented by Trading Standards. It was also accepted that Mr R Sangarah made the sale.

It was also highlighted that the refusals register was in fact on the premises, however Mr R Sangarah's wife, the manager of the store, had temporarily moved it, having been unaware of the importance of keeping the Register by the till.

Mr Edwards made clear to the Sub-Committee that since the failed test-purchase, steps have been taken to ensure that this will remain an isolated incident.

Mr Harpreet and Randeep Sangarah both apologised for this incident and acknowledged their responsibility in this matter.

It was requested that a copy of the Refusals Register be circulated to the Sub-Committee. Mr Edwards provided this document.

After further discussion it was

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 the Harvestime General Stores, 35/37 Langland Drive, Sedgley.

Conditions

- (1) A written Proof of Age Policy is to be put in force, which all staff authorised to sell alcohol shall be trained in and adhere to. Valid proof of identification will only include passport, photographic driving license 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) A Challenge 25 policy will be operated at the premises whereby any individual attempting to purchase alcohol who appears to be under 25 years of age will be asked to provide valid identification to prove they are 18 years or older. All staff must be made aware of and trained in this policy.
- (3) Publicity materials notifying customers of the operation of the "Challenge 25" scheme shall be displayed at the premises, including a "Challenge 25" sign of at least A4 size at each point of sale.
- (4) 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.
- (5) 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 PLH shall check the book once a week ensuring it is completed and up-to-date. The PLH will sign the book each time it is checked. This book shall be made available for inspection by an officer of any responsible authority on demand.
- (6) CCTV to be in place at the premises to the specifications of the West Midlands Police – Crime Reduction Officer so that the alcohol display area and 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 within 24 hours.
- (7) The premises' CCTV shall be reviewed 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.
- (8) All persons engaged to sell alcohol must complete a training programme, which includes a written test, to verify their competency, prior to them being authorised to sell alcohol.
- (9) 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 review shall be recorded in writing.
- (10) A file shall be maintained at the premises for each person authorised to sell alcohol. This file shall contain all training records for each person along with copies of monthly reviews as stated in point 9. This file shall be available for inspection by an officer of any responsible authority upon request.

Following careful consideration of the information contained within the report and as reported at the meeting, the Sub-Committee will modify the conditions of the premises licence in order to prevent the premises further undermining the licensing objectives.

The Sub-Committee is satisfied that implementing the 10 conditions will prevent the premises from undermining the licensing objectives, in particular the prevention of crime and disorder and the protection of children from harm.

The Sub-Committee re-enforces the fact that the Designated Premises Supervisor and the Premises Licence Holder has a very important role in the selling of alcohol and therefore needs to be aware of and fully understand the ramifications of selling to under age children.

6. APPLICATION FOR REVIEW OF PREMISES LICENCE – SELECT & SAVE (FORMALLY KNOWN AS KINGSWAY STORES), 7 BILSTON STREET, SEDGLEY

A report of the Director of Corporate Resources was submitted on an application for the review of the premises licence in respect of Select & Save, 7 Bilston Street, Sedgley.

Mr and Mrs Ralhan (Formerly known as Miss Devi) were in attendance, along with Mr Ragesh, Licensing Representative.

It was noted that Mr T Premakumar, Designated Premises Supervisor, was not in attendance.

Mr T Parkes, Enforcement Officer, Directorate of Corporate Resources, presented the report on behalf of the Council.

After a short discussion it was

RESOLVED

That, the application be deferred to a future meeting of a Sub-Committee pending clarification on the correct details of the Premises Licence Holder.

7. APPLICATION FOR A PREMISE LICENCE – 35 CHURCH STREET, PENSNETT, DUDLEY

A report of the Director of Corporate Resources was submitted to consider an application for the grant of a Premises Licence in respect of the premises known as 35 Church Street, Pensnett, Dudley.

Mr S Mahmmud, the Applicant, was in attendance.

Also in attendance were Mr C King, Principal Trading Standards Officer, and Mr G Wintrip, Age Restricted Products Officer, both from the Directorate of the Urban Environment, Ms Natalie Lees and Ms Amanda Baldwin both Licensing Officers of West Midlands Police Authority and Mrs Susan Kowolik – Objector, along with 3 members of the public.

Mr T Parkes, Enforcement Officer, Directorate of Corporate Resources, presented the report on behalf of the Council.

Mr C King presented the representations of Trading Standards, and in doing so outlined the causes for concern in relation to this application that had been circulated to Members prior to the meeting. He also referred to the objections and further information received from West Midlands Police Authority.

Additional information was brought to the Sub-Committee's attention by Mr King and was circulated to the applicant before it was considered as a further objection to the application.

Mr Mahmmud then presented his representations and in doing so outlined his intention for the property. In response to the police evidence discussed by Mr King, Mr Mahmmud replied that he felt that to his knowledge there was no evidence of illegal behaviour in his other stores, and stated that his intention was to run the shop as a local convenience store.

Mr Mahmmud highlighted the five year tenancy agreement to the Sub-Committee, and in doing so explained that he would accept any conditions onto the licence and only intended to trade up until 21.00.

Mr Wintrip, Trading Standards, asked for clarification on who was the current landlord at the property. It was believed that the previous owner of the shop was now the landlord, and Mr Wintrip raised concerns relating to information circulated prior to the meeting.

At this juncture, Mr Mahmmud produced a petition in support of the shop. This was circulated to Trading Standards and objectors for approval before it was distributed for consideration by the Sub-Committee.

Following further discussion it was

RESOLVED

That, the application for a premises licence in respect of the premises known as 35 Church Street, Pensnett, Dudley, be refused.

Reason For Decision

This is an application for a new premises licence in respect of the premises known as 35 Church Street, Pensnett, Dudley. Mr Mahmud gave evidence that he entered into a tenancy of the premises for 5 years believing that it had a premises licence. He made the assumption, he said, based on the fact that it was selling alcohol when he visited the premises in December 2012. What is clear is that the premises licence had been revoked due to underage sales in summer 2012. There had also been 229 police logs relating to 35 Church Street relating to anti-social behaviour generally.

Mr Mahmud has not persuaded the Sub-Committee that he has considered the history of this store, and its previous premises licence, and the many issues of the under age sales and anti-social behaviour. It is clear that he did not make sufficient checks in relation to the existence of a premises licence and therefore, he did not have a clear business plan that would ensure that the licensing objectives were clearly and carefully considered. The proposed operating schedule lacks detail and refers to a Challenge 21 policy. Dudley MBC operates a Challenge 25 policy and it is therefore clear that he had not researched his business plan prior to making his application on 22nd May 2013. In oral evidence he stated that he would “even introduce a ‘Challenge 25’ policy”. This statement reveals that he believes this to be a very high target rather than a national standard. This did not convince the Sub-Committee that he was prioritising the Protection of Children from Harm. The operating schedule also contains statements that are more appropriate to a public house, i.e. ‘Persons leaving the premises quietly’ and ‘no sales of alcohol in open containers’, than a shop. Again, this does not convince this Sub-Committee that Mr Mahmud has created an operating schedule that will prevent anti-social behaviour and protect young persons from harm.

In the case of this premises and it’s history and location, the Sub-Committee would expect a very high standard of business planning and operating.

For these reasons the Sub-Committee refuses this application for a premises licence.

Meeting ended at 13.20

CHAIR

LSBC3/7