

## **Minutes of the Licensing Sub-Committee 1**

**Tuesday 14<sup>th</sup> April, 2015 at 10.05 am**  
**in the Council Chamber, The Council House, Dudley**

### **Present:-**

Councillor D Russell (Chair)  
Councillors D Blood and C Perks

### **Officers:-**

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

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21      **Declarations of Interest**

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

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22      **Minutes**

Resolved

That the minutes of the meeting of the Sub-Committee held on 3<sup>rd</sup> February, 2015, be approved as a correct record and signed.

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23      **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 Solicitor, Mr P Burke.

Also in attendance and objecting to the application were Councillor S Turner (Ward Member), Mr and Mrs Jeavons (Residents) and Mr and Mrs Pask (Residents).

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.

At this juncture, Councillor Turner requested the submission of additional evidence, namely, the covenant, dated August, 1959, for the benefit and protection of lands comprised in the Straits Building Estate, which had also been referred to in the representations by local residents.

In responding to the request, the Legal Advisor reported that although the covenant was included in the representations submitted, he advised the Sub-Committee should not consider the covenant in their decision-making as it was a land issue and not in accordance with the Licensing Objectives; therefore it was not within the remit of the Sub-Committee. He also stated that the covenant was not clear in identifying the parties that were able to enforce action should the covenant be disregarded.

Councillor Turner responded that the covenant should be considered, and that legal documents should not be over-ruled which could set a precedent for other applications, as it was confirmed in the covenant that no part of land or any building should be used for the sale or supply of intoxicating products. He also referred to a previous application for the opening of a fish and chips shop in the area which was refused as it was not permitted in accordance with the covenant.

At this juncture, the meeting was adjourned in order to enable the Sub-Committee to determine whether to accept the request for submission of the covenant.

Having returned to the meeting, Mr Burke stated that the covenant was not in the remit of the Sub-Committee and should not be considered and he believed that the only people who could enforce the covenant would be those who endorsed it, such as the Earl of Dudley.

Following further discussion it was

Resolved

That the grant of a premises licence in respect of Straits News and Wine, 114 The Straits, Dudley, be deferred to allow the applicant to take further legal advice in reference to the purported covenant affecting the premises.

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 General Wines and Spirits, 48 Wynnall Lane, Stourbridge.

Mrs D Kaur (Premises Licence Holder and Designated Premises Supervisor) was in attendance at the meeting, together with her husband Mr B Singh.

Also in attendance were C King, Principal Trading Standards Officer, and G Wintrip, Age Restricted Products Enforcement Officer, (Both Place Directorate)

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

Mr C King 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 King informed the Sub-Committee that on 17<sup>th</sup> December, 2014, 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 on 26<sup>th</sup> October, 2012, an alcohol test purchase exercise had been undertaken at the premises which did not result in a sale being made.

On 31<sup>st</sup> October, 2012, an officer from Trading Standards carried out a visit to the premises and spoke to Mrs Kaur. The purpose of the visit was to provide advice in relation to preventing underage sales of age restricted products, and Mrs Kaur was given detailed advice including information in respect of acceptable proof of age and the importance of keeping a refusals register. Mrs Kaur 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 Kaur also signed an ARP form 0720 to acknowledge receipt of the information pack during the visit.

It was noted that on 15<sup>th</sup> May, 2013, a tobacco test purchase exercise had been undertaken at the premises which did not result in a sale being made.

It was further noted that on 16<sup>th</sup> August, 2013 and 23<sup>rd</sup> July, 2014, further advisory visits were undertaken at the premises, and the visiting officer spoke to Mrs Kaur who was present on both occasions. Further advice was given relating to the sale of age restricted products, and Mrs Kaur also signed ARP form 0925 and 1179 to acknowledge that both visits had taken place.

It was noted that on 17<sup>th</sup> September, 2014, a tobacco test purchase exercise had been undertaken at the premises which did not result in a sale being made.

Mr King further stated that on 17<sup>th</sup> December, 2014, 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 four cans of Carling 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. It was noted that Mrs Kaur was also present behind the counter at the time but did not make the sale.

Following the sale, and having visited the premises, it was discovered that the individual who sold the alcohol to the male had been a Miss S Kaur. When cautioned and informed that she had sold alcohol to a sixteen year old child she made no reply at that time, however she later stated that Mrs Kaur had told her to sell the alcohol. Mrs Kaur stated that she had thought the volunteer looked over eighteen and therefore told Miss Kaur to sell the alcohol.

On inspection of the premises, it was noted that there were age restricted product literature displayed and a 'Challenge 25' policy advertised. Mrs Kaur produced the refusals register which showed one entry dated 8<sup>th</sup> November, 2014 since the advisory visit on 23<sup>rd</sup> July, 2014.

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 conditions had been circulated to all parties prior to the meeting.

Mrs Kaur then presented her case, and in doing so stated that at the time of the test purchase she was heavily pregnant and her husband was not present at the premises. She stated that she considered the test volunteer to be over eighteen and informed Miss Kaur to sell the alcohol, and that she had made a mistake.

In responding to a question by a member, Mr Wintrip confirmed that there was no previous history or complaints against the premises, and that he visited all establishments within the Borough on a yearly basis to ensure compliance.

In responding to a request by the Chair, Mrs Kaur circulated the refusals register to the Sub-Committee.

Reference was made to the training carried out at the premises, Mrs Kaur stated that Miss Kaur was employed at the premises on a temporary basis and resided at the premises, together with Mrs Kaur and her family, and was no longer employed in the business, and had returned abroad.

Mrs Kaur informed the Sub-Committee that she understood the requirements in relation to Challenge 25, and did request identification regularly. She further stated that there had previously been a number of refusals at the premises which were now reducing, however she did admit that the refusals were not entered on to the register appropriately.

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

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 General Stores Wines and Spirits, 48 Wynnall Lane, 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 premises review in relation to the General Stores Wines and Spirits, 48 Wynnall Lane, Stourbridge. The review has been brought by Trading Standards in relation to a failed test purchase conducted on 17<sup>th</sup> December, 2014. A sale was made of four cans of Carling Cider to a 16 year old test purchaser. The sale was made by a Miss Sanjit Kaur who did not ask the age of the purchaser. Mrs Kaur was behind her at the point of sale. Miss Kaur later stated that she thought the person looked over 18 and therefore, she made the sale because Mrs Darshan Kaur instructed her to make the sale because she thought the customer looked over 18.

Mrs Darshan Kaur attended to respond to the review application. She is both the Premises Licence Holder and Designated Premises Supervisor.

Previous test purchase exercises in relation to tobacco have been conducted at the premises on 15/05/13 and 17/09/14 and on both occasions no sales were made. An alcohol test purchase was also conducted on 26/10/12 and no sale was made on that occasion.

Mrs Kaur's evidence was that she was heavily pregnant and not well at the time of the test purchase, and she thought the boy looked over 18. She accepted that she had advised Miss Kaur to make the sale, and she accepted that she had made a mistake on 17<sup>th</sup> December, 2014. Mr King confirmed that the store operated a challenge 25 policy, and that the test purchaser certainly did not look 25. Mrs Kaur accepted that she had made a mistake by not asking for proof of age.

The refusal register was presented to the Sub-Committee today. Mr Wintrip from Trading Standards confirmed that he viewed the register on each occasion he visited but that on 17<sup>th</sup> December, there was only one refusal recorded (in November 2014) since he last visited the premises on 23 July 2014. Mrs Kaur stated in evidence that she had refused sales for tobacco and alcohol in that period, but did not complete the register, and that this too was a mistake. She now stated that she was using the register appropriately and indeed, 4 entries were seen by the Sub-Committee between January and March 2015.

Mrs Kaur did not contest any of the evidence presented by Trading Standards.

Miss Kaur was employed at the premises on a temporary basis and was no longer employed in the business, and had returned abroad.

The Sub-Committee notes that Mrs Kaur has been very frank and admitted that she did not complete the refusals register appropriately, and that she did make a mistake by authorising the test purchase. The Sub-Committee also notes the circumstances of her pregnancy in late 2014. She had read the conditions that Trading Standards proposed could be attached to the premises licence, and confirmed that she would accept these. Specifically she confirmed that CCTV was installed and access to it could be given to authorised officers upon request with little delay, and that footage was stored for up to six weeks.

The Sub-Committee therefore does not take the step of revoking the premises license, but finds that in the light of the response of Mrs Kaur to the review, and in the light of her circumstances, the appropriate step to promote the protection of young persons is to attach the 9 proposed conditions to the premises licence. The Sub-Committee highlights condition 7, in relation to appropriate training of any staff at the premises, in the light of the sale made by Miss Sanjit Kaur aged 23 at the time. It also highlights the importance of completing the refusals register on an ongoing basis.

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The meeting ended at 11.40 am

CHAIR