

LICENSING SUB-COMMITTEE 2

Tuesday, 7th October, 2008 at 10.00am
in the Council Chamber, The Council House, Dudley

PRESENT:-

Councillor Woodall (Chairman)
Councillors Mrs Dunn and Mottram

Officers

Assistant Director Legal and Democratic Services (Legal Advisor), Mrs J Elliott
(Licensing Officer) and Mr J Jablonski (Directorate of Law and Property)

9 **DECLARATIONS OF INTEREST**

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

10 **MINUTES**

RESOLVED

That the Minutes of the Meeting of the Sub-Committee held on 2nd September, 2008 be approved as a correct record and signed.

11 **CHANGE IN ORDER OF BUSINESS**

Pursuant to Council Procedure Rule 13(c), it was agreed that the remaining items of business be dealt with in the following Order:-

Agenda Item numbers 7, 8, 5 and 6.

12 **EXCLUSION OF THE PUBLIC**

RESOLVED

That the public be excluded from the meeting for the following item of business on the grounds that it involves the likely disclosure of exempt information as defined in Part 1 of Schedule 12A to the Local Government Act, 1972, as indicated below, and in all the circumstances, the public interest in disclosing the information is outweighed by the public interest in maintaining the exemption from disclosure.

Application to vary and transfer a Premises
Licence – Mr BSU

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13 APPLICATION TO VARY AND TRANSFER A PREMISES LICENCE – MR
BSU

A report of the Director of Law and Property was submitted on applications received from Mr BSU to vary a premises licence so as to certify himself as the Designated Premises Supervisor and for the transfer of the Premises Licence into his name.

Mr BSU was in attendance together with his father and a Mr C Gammon his legal representative. Also in attendance was PC Smith, West Midlands Police, who had objected to the applications in the terms outlined in Appendix 3 to the report submitted.

Following introductions made by the Chairman Mr Gammon raised a point of law querying whether the further grounds of objection that PC Smith wished to make at this meeting could be allowed.

Following initial consideration of this matter there was an adjournment to enable the Legal Advisor to consider the matter. Both parties to this matter also retired.

At the conclusion of the adjournment the Legal Advisor and both parties to this matter returned to the meeting and the Legal Advisor informed the Sub-Committee of the basis on which the matter could proceed.

PC Smith then informed the Sub-Committee of the further representations he wished to make and referred to a number of test purchase exercises at which alcohol and cider had been sold by members of the applicant's family. Details were also given of costs and fines awarded against the persons concerned following their appearance at Dudley Magistrate Court hearings. Details were also given of test purchase exercises at which no sales of alcohol had been made. These events covered the period October 2005 to August 2008.

Following the representations made the Legal Advisor then referred to Section 37 of the Licensing Act 2003 in particular sub-sections 5 and 6 regarding the making of objections by the police to applications and the terms of such objections and to the related guidance whereby the police must make representations within 14 days of a request to do so but may not make additional further representations prior to the hearing but may expand on existing representations.

The Sub-Committee were then asked to determine whether the further representations made were an expansion of the existing ground of objection or something entirely separate which would not be admissible.

Mr Gammon considered that the additional representations related to other people's behaviour and were quite separate to the ground of objection originally submitted to the Sub-Committee. He therefore, asked that the additional representations should be set aside as they were out of time and therefore could not be considered by the Sub-Committee.

There was then a further adjournment to enable the Sub-Committee to determine this issue and again the two parties withdrew during the deliberations of the Sub-Committee on this point.

On the return of the two parties the Chairman informed them that

"We have decided to admit the representations of the Police in their entirety. We regard the representations as an expansion of the existing representation because they all relate to offences and fixed penalties for the sale of alcohol to children from the same premises by various family members."

Mr Gammon was then invited to speak and in so doing stated that this determination did affect the case that he was to present and as further work would need to be carried out given the decision he asked that the applications be deferred to enable him to take further instructions.

RESOLVED

That, in the circumstances as outlined above, approval be given to the deferment of consideration of the applications made by Mr BSU, to vary a premises licence to specify himself as the Designated Premises Supervisor and for the transfer of the Premises Licence into his name, to a meeting of a sub-committee to be held at a future date.

14 APPLICATION FOR CONSENT TO ENGAGGE IN STREET TRADING – ANNE AND IAN'S COSY KITCHEN

A report of the Director of Law and Property was submitted on an application made on behalf of Mrs Anne Woodward and Mr Ian Griffiths for the grant of a consent to engage in street trading at a site in the pedestrian area between Crown Lane and Coventry Street, Stourbridge.

The Sub-Committee were informed that the applicants were not in attendance and in view of the need to clarify a number of points relating to the application it was:

RESOLVED

That further consideration be given to the application made on behalf of Mrs Anne Woodward and Mr Ian Griffiths to engage in street trading at a site in the pedestrian area between Crown Lane and Coventry Street, Stourbridge by the Officers concerned and that in the event of objections being raised to the application, once clarified, it be submitted to a future meeting of a sub-committee for determination.

The meeting ended at 11.50 am

CHAIRMAN