

## **Licensing Sub-Committee 3**

**Tuesday, 30<sup>th</sup> September, 2014 at 10.00am  
in the Council Chamber at the Council House, Priory Road, Dudley**

### **Agenda - Public Session (Meeting open to the public and press)**

1. Apologies for absence.
2. To report the appointment of any substitute Members for this meeting of the Sub-Committee.
3. To receive any declarations of interest under the Members' Code of Conduct.
4. To confirm and sign the minutes of the meetings held on 26<sup>th</sup> August, 2014 as a correct record.
5. Application to Transfer a Premises Licence – Select Food and Beverages, 95 High Street, Dudley
6. To consider any questions from Members to the Chair where two clear days notice has been given to the Director of Corporate Resources (Council Procedure Rule 11.8).



**Director of Corporate Resources**

**Dated: 18<sup>th</sup> September, 2014**

**Distribution:**

Councillors J Cowell (Chair), A Taylor and E Taylor

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**Minutes of the Licensing Sub-Committee 3**

**Tuesday 26<sup>th</sup> August, 2014 at 10.00 am**  
**in the Council Chamber, The Council House, Dudley**

**Present:-**

Councillor J Cowell (Chair)  
Councillors Blood and K Finch

**Officers:-**

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

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13      **Apologies for Absence**

Apologies for absence from the meeting were received on behalf of Councillors A Taylor and E Taylor.

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14      **Appointment of Substitute Members**

It was reported that Councillors Blood and K Finch had been appointed as substitute Members for Councillors A Taylor and E Taylor respectively for this meeting of the Sub-Committee only.

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15      **Declarations of Interest**

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

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16      **Minutes**

Resolved

That the minutes of the meetings of the Sub-Committee held on 17<sup>th</sup> June and 22<sup>nd</sup> July, 2014, be approved as correct records and signed.

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**Application for Review of Premises Licence – Cross Walks Stores, Cross Walks Road, Stourbridge**

A report of the Director of Corporate Resources was submitted on an application for the review of the premises licence in respect of Cross Walks Stores, Cross Walks Road, Dudley.

Mrs N Kaur, Premises Licence Holder and Designated Premises Supervisor was in attendance at the meeting.

Also in attendance were Mr C King, Principal Trading Standards Officer, Directorate of the Urban Environment, Mr J Annakin, Office of Public Health and Ms A Baldwin, West Midlands Police.

Following introductions by the Chair, the Licensing Officer presented the report on behalf of the Council. It was noted that three letters from residents in the vicinity of the premises had been received in support of Mrs Kaur.

Mr King then presented the representations of Trading Standards and in doing so highlighted that the grounds for 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 sale of alcohol to a person under the age of eighteen.

Mr King informed the Sub-Committee that on 13<sup>th</sup> June, 2014, a fifteen year old male child test purchaser was sold alcohol, namely 4 cans of Fosters lager with 4% alcohol, from the premises contrary to section 146(1) of the Licensing Act 2003 and in direct contravention of the licensing objectives.

It was reported that the current premises licence was granted to Mrs N Kaur on 11<sup>th</sup> December, 2006. It was also reported that Mrs Kaur was also the Designated Premises Supervisor and held a personal licence issued by Sandwell Metropolitan Borough Council.

It was noted that on 18<sup>th</sup> July, 2012, a test purchase for alcohol was conducted at the premises with no sale being made.

Mr King stated that on 31<sup>st</sup> October 2012, an officer from Trading Standards had carried out a visit to the premises and spoke to Mr Ravinder Singh Randhawa, the husband of Mrs Kaur. It was reported that the purpose of the visit had been to provide advice to help prevent the underage sale of restricted products. Mr Randhawa was given detailed advice, including information in respect of acceptable proof of age and the importance of keeping a refusals register. Mr Randhawa was also provided with an advice pack relating to the sale of restricted products, an advice booklet, a challenge 25 poster, a refusals register, a poster regarding proof of age and a sample Proof of Age Standards Scheme card and was asked to ensure that it was brought to the attention of all staff to ensure that they were aware of their obligations under the Licensing Act 2003. During the course of the visit, Mr Randhawa signed a form to acknowledge receipt of the information pack.

On Friday 13<sup>th</sup> June, 2014, Officers from Trading Standards together with officers from West Midlands Police, carried out a test purchase at the premises to determine compliance with the law on the sale of alcohol to persons under the age of eighteen. It was reported that a fifteen year old male child test purchase volunteer had purchased 4 cans of Fosters lager with a 4% alcohol by volume. The seller made no attempt to ask the age of the volunteer and did not request any identification. It was also reported that Mr Randhawa, who was also present behind the counter, had told the volunteer that chilled beers could be located at the back of the shop when he entered the premises.

On returning to the premises, the individual who had sold the alcohol to the test purchase volunteer had been identified and reported that he was only fourteen years of age.

Both Mr Randhawa and the individual who had made the sale had been cautioned and informed that they had sold alcohol to a fifteen year old child. Mr Randhawa was asked on two occasions whether member of staff had been authorised to sell alcohol to which he replied "no". It was reported that whilst police officers sought advice, Mr Randhawa was asked once again whether the member of staff had been authorised to sell alcohol, on that occasion, he said that he was authorised to sell alcohol.

It was reported that on inspection of the premises various age restricted posters had been seen on display, however, Mr Randhawa had been unable to produce a Refusals Register when asked to do so.

It was noted that due to the member of staff's age, police officers had been unable to issue a fixed penalty notice and had arranged to speak to him in the presence of his mother at a later date.

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

Mr Annakin then presented the representations of Public Health, which had been circulated to all parties in accordance with the Licensing Act 2003. He 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 Mr Annakin, the sale of alcohol to underage young people was considered to be very serious and supported the recommendations made by Trading Standards.

Ms Baldwin then presented the representations of West Midlands Police and in doing so informed the Sub-Committee that the Police had made enquiries on relevant police systems and had also liaised with the local neighbourhood team. She reported that the police had not received any intelligence in relation to counterfeit goods at the location and that there had been no recent reports of crime and disorder at the premises. She further reported that local officers regularly patrolled the area and there had been no other issues in relation to the establishment. She indicated that the West Midlands Police also fully supported the recommendations made by Trading Standards.

Mrs Kaur then presented her case and in doing so accepted full responsibility of the actions of her staff. She indicated that she had managed the premises successfully for a long period of time and assured the Sub-Committee that it was an isolated incident and would not occur again. She stated that at the time the incident had happened, her husband had been under a lot of pressure. She reported that her husband had been on his mobile phone to the hospital where his father was in intensive care, which had distracted him.

In concluding, she informed the Sub-Committee that she would accept the additional conditions to be included on her licence.

In responding to a question from a Member in relation to the letters of support received from residents and how her husband would allow the sale of alcohol to a person under the age of eighteen, Mrs Kaur indicated that the incident had been a "one off" and that the Refusals Register could prove that refusals for the sale of restricted products were made.

The Sub-Committee expressed concern that a fourteen year old boy had been authorised to make the sale by Mr Randhawa, who was not a personal licence holder. In responding, Mrs Kaur assured the Sub-Committee that it would not happen again. In response to a question asked by a Member in relation to Mr Randhawa's responses when asked several times if the member of staff who had made the sale was authorised to sell alcohol, Mrs Kaur replied "on two occasions he had said no and then he said yes, I think he may have panicked".

At the request of Mr King, Mrs Kaur circulated the Refusal Register to the Sub-Committee for perusal.

Concerns were raised by Members that since the Refusals Register had been in operation it had rarely been used and questioned why there had been no entries made in roughly twelve months. Mrs Kaur responded by stating "no incidents to report, I assume". In responding to a further question by a Member, Mrs Kaur indicated that four staff, including herself, were employed at the premises and assured the Sub-Committee that all members of staff had received appropriate training on age restricted products and the use of the Refusals Register. She stated that since the incident, she conducted weekly review to check the Refusals Register was completed and up-to-date as recommended by Trading Standards. She also reported that there was a member of staff present at the premises who was authorised to see alcohol at all times.

In responding to a question asked by a Member in relation to whether the member of staff accepted responsibility for the incident, Mrs Kaur indicated that he understood the severity of the situation and had assured her that it would not occur again. In responding to a further question, Mrs Kaur stated that appropriate training had been given and although that member of staff did access the till occasionally, he understood that he was not authorised to sell any age restricted products.

In responding to a question asked by a Member, Mrs Kaur stated that she did not have a facility in place which provided the till operator with a instant message reminding them to ask for identification each time any age restricted product was scanned.

In summing up, Mr King re-iterated comments previously made and acknowledged that Mrs Kaur had accepted responsibility of the incident, however, he stated that the sale of alcohol to persons under the age of eighteen was a very serious offence.

In summing up, Mrs Kaur indicated that she accepted full responsibility of the incident and assured the Sub-Committee that she would ensure that a similar incident did not occur 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 following careful consideration, the premises licence in respect of Cross Walks Stores, Cross Walks Road, Stourbridge, be suspended for a period of 28 days and that the following conditions be applied to the premises licence:-

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 adhered to. Valid proof of identification will only include passport, photographic driving licence or an Proof of Age Standard 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 of 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 a 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 underage, shall be refused service.
- (10) No person under the age of 18 years is to be authorised to sell alcohol.

#### Reasons for decision

This is an application for the review of the premises licence of Cross Walks Stores, Stourbidge. Mrs Narrinder Kaur is the Premises Licence Holder and the Designated Premises Supervisor and attended today.

The review has been brought by Trading Standards as a result of a fifteen year old male test purchaser being sold 4 cans of lager on 13<sup>th</sup> June, 2014. The person making the sale was a fourteen year old boy. A Mr Randhawa was behind the counter at the time the test purchaser asked for alcohol, and Mr Randhawa pointed the test purchaser towards the chiller unit to the rear of the premises. He is the husband of the Premises Licence Holder. Both the fourteen year old boy and Mr Randhawa were cautioned. The fourteen year old was not authorised to make the sale of alcohol as Mr Randhawa does not hold a personal licence and therefore could not authorise the sale.

The refusals register was not available to Trading Standards officers, but Ms Kaur produced it today and there were no entries for roughly one year until June 2014. Mrs Kaur was not really able to explain why this was.

The Sub-Committee finds that there is clear evidence that the premises has not been managed appropriately to protect young persons, and therefore takes the step of imposing the conditions proposed by Trading Standards, on to the premises licence. Mrs Kaur has stated that she is prepared to implement these conditions.

The Sub-Committee finds that the circumstances of this sale, and the poor management of the premises are so serious that it also suspends the licence for 28 days.

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The meeting ended at 11.05 am.

CHAIR

**Licensing Sub-Committee 3 – 30<sup>th</sup> September 2014**

**Report of the Director of Corporate Resources**

**Application to Transfer a Premises Licence**

**Purpose of Report**

1. To consider the application for transfer of the premises licence in respect of the premises known as Select Food & Beverages, 95, High Street, Dudley, DY1 1QP.

**Background**

2. Select Food & Beverages formerly known as (Everyting Criss Supermarket) was first issued with a premises licence on the 19<sup>th</sup> October 2005, that licence was subsequently transferred on the 26<sup>th</sup> April 2010, 16<sup>th</sup> August 2011 and the 22<sup>nd</sup> March 2012, the current premises licence holder is Mr Christopher Allwood.

3. The current premises licence is issued as follows:

Sale of Alcohol

Monday to Saturday	08.00 – 23.00	Good Friday	08.00 – 22.30
Sundays	10.00 – 22.30	Christmas Day	12.00 – 15.00 19.00 – 22.30

4. On the 20<sup>th</sup> May 2014, an application was received from Ms Joy Braham for the transfer of the premises licence . Copies of that application have been circulated to Committee Members and Interested Parties in accordance with the Licensing Act 2003.
5. On the 30<sup>th</sup> May 2014, the West Midlands Police made representations to the application, a copy of that report has also been circulated to Committee Members, Interested Parties and the Applicant.
6. This matter was considered by the Licensing & Safety Committee on the 24<sup>th</sup> June 2014, the Committee resolved that the matter be deferred until the applicant Joy Braham had undertaken the relevant training. On the 5<sup>th</sup> September 2014, the Licensing Office received confirmation that Ms Braham had completed the relevant training.

7. This application falls within the Council's recent responsibility for liquor licensing which has a direct link to the Council's key corporate priority that safety matters.

## **Finance**

8. There are no financial implications.

## **Law**

9. The law relating to applications to transfer of premises licence is governed by the Licensing Act 2003, part 3, section 42.
10. Pursuant to section 42 (6) where a Chief Officer of Police is satisfied that the exceptional circumstances of the case are such that granting the application would undermine the crime prevention objective, he must give the relevant licensing authority a notice stating the reasons why he is so satisfied.
11. Pursuant to section 42 (7) the Chief Officer of Police must give that notice within the period of 14 days beginning with the day he is notified of the application.
12. Pursuant to section 44 (5) the Licensing Authority must:-
  - (a) hold a hearing to consider it, unless the authority, the applicant, and the Chief Officer of the Police who gave notice agree that a hearing is unnecessary, and
  - (b) having regard to the notice reject the application if it considers it appropriate for the promotion of the crime prevention objective to do so.
13. Pursuant to regulation 26 (1) of the Licensing Act 2003 (Hearing Regulations 2005), the Licensing Authority must make its determination at the conclusion of the hearing.
14. Pursuant to section 45 (1) where an application under section 42 is granted or rejected the Licensing Authority must give a notice to that effect to:-
  - (a) the applicant  
and
  - (b) the Chief Officer of Police in which the premises are situated.
15. Pursuant to section 45 (2) the notice must state the authorities reasons for granting or rejecting the application.
16. Pursuant to section 45 (3) where the application is granted, the notice must specify the time when the transfer takes effect.
17. Pursuant to section 45 (4) the licensing authority must also give a notice
  - (a) where the application is granted:-

- (i) to the holder of the licence immediately before the application was granted, or
    - (ii) if the application was one to which included a request that the transfer take immediate effect, to the holder of the licence immediately before the application was made (if any)
  - (b) where the application is rejected, to the holder of the premises licence (if any)
18. Pursuant to schedule 5, part 1 1(d) if the Licensing Committee refuse to grant the application for transfer of premises licence there is a right of appeal to the Magistrate's Court.
19. Pursuant to Schedule 5, Part 1 6 (1) and (2) if the Licensing Committee grants the application to vary a licence to specify individual as premises supervisor in a case where a Chief Officer of Police gave notice under section 42 (6) the Chief Officer of the Police may appeal against the decision to grant the application.

### **Equality Impact**

20. This report takes into account the Council's policy on equal opportunities.
21. The licensing of premises and individuals will impact on children and young people through their attendance at licensed premises.
22. There has been no consultation or involvement of children and young people in developing these proposals.

### **Recommendation**

23. That the Sub-Committee determine the application.



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DIRECTOR OF CORPORATE RESOURCES

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### **List of Background Papers**

None