

Minutes of Licensing Sub-Committee 2

Tuesday 9th June, 2015 at 10.00 am
in the Council Chamber, The Council House, Dudley

Present:-

Councillor K Finch (Chair)
Councillors M Evans and S Henley

Officers: -

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

1 **Declarations of Interest**

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

2 **Minutes**

Resolved

That the minutes of the meeting of the Sub-Committee held on 10th February, 2015, be approved as a correct record and signed.

3 **Application for a Premises Licence – Lake Discount Store**

A report of the Strategic Director (Resources and Transformation) was submitted on an application for a premises licence in respect of Lake Discount Store, Lake Street, Lower Gornal, Dudley.

The following persons attended the meeting in respect of this application:-

Mr M Rashad – Applicant
Mrs C Begum – Applicant's spouse
Mr Craig – (Quality Solicitors Talbots – representing the applicant)
Mr B Hughes – Licensing Enforcement Officer
Mr C King – Trading Standards
Mr G Wintrip – Trading Standards
PC Baldwin – West Midlands Police
Sergeant Cruickshank – West Midlands Police

Also in attendance:-

Representatives from Ellowes Hall and Area Tenants and Residents Association

Councillor D Perks – Observer

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

Mr Hughes then presented the representations of the Licensing Authority and in doing so referred to the history and criminal convictions relating to the present owners which had resulted in their premises licence being revoked. Mr Hughes sought clarification from the applicant on whether there was any association or connection with the present owner or his family as he was concerned that should the licence be granted the present owners could potentially still be involved in running the business.

PC Baldwin commented on behalf of the police and stated that they did not have any objection to the licence being granted to the applicants as they had conducted their checks and had not found any connection with them to the current owner. However they had serious concerns about the anti social behaviour and crime disorder relating to the premises arising from the conduct of the current owners. It was also reported that complaints to the police had dramatically reduced since the licence had been revoked and it was confirmed that issues were connected to this particular premise as there were no complaints about other shops in the vicinity.

Representatives from Trading Standards echoed these concerns and stated that they had received numerous complaints about the premises over a number of years relating to the present owners selling tobacco and alcohol to young people under the legal age. It was commented that because of the character of the area strong and firm management was required at these premises so that local under aged children were not able to access these supplies. Reference was also made to the person named as the designated premises supervisor on the application and on their concerns regarding this and clarification was sought on the link or connection between that person and the applicant.

Representatives from Ellowes Hall and Area Tenants and Residents Association also informed the meeting on residents' concerns, particularly from the elderly, about anti social behaviour in the area arising from the lack of control and alcohol being sold to the under aged by the present owners. That since the licence had been revoked there had been a positive impact on the area and it was queried what stringent measures the proposed owners would implement to prevent previous problems from reoccurring. Also concerns were expressed about the selling of alcohol from 6.00 am to 10.00 pm and the need to place a restriction on these hours.

Mr Craig, Talbots Solicitors, then presented the case on behalf of the applicant and in doing so referred to the mismanagement and catalogue of criminal issues relating to the current owner and the associated premises which had a significant impact on the residents and surrounding area. It was stated that, although there was no evidence, there was a strong possibility that alcohol continued to be sold to the under aged by the current owner even though he did not have a premises licence. Mr Craig commented that this application was an opportunity to alleviate problems being experienced and it was further stated that the applicant would not proceed with purchasing the business should a licence not be granted as it was not deemed to be viable.

Mr Craig, the applicant and his spouse responded to queries and it was confirmed that they had no association, connection, friendship or business relationship with the previous licence holder and that they were from different ethnic backgrounds, namely Muslim and Sikh. The applicant and his spouse had reputable backgrounds, the applicant being a taxi driver with no convictions and his spouse a driving instructor and that they had previous experience of managing shops with no issues or complaints. With regard to the name on the application for the designated premises supervisor it was clarified that the person was a close friend but would not have any involvement in the business. The applicant would be the designated premises supervisor and would manage the premises with his son, following relevant training. It was confirmed that following acquisition of the business the applicant would retire from being a taxi driver to enable him to manage the business on a full time basis. Closed circuit television recording and other associated documents would be kept and made available for inspection and an electronic machine would be used to scan age restricted products with a view to prompting the staff to confirm the age of the buyer. Should the application be granted the applicant would be willing to accept and abide by the ten conditions imposed

by trading standards, to include the change to the premises licence to apply from 12 noon until 10.00 pm instead of from 6.00 am to 10.00 pm, together with additional conditions relating to engaging the services of a reputable training organisation for staff, the premises licence to only take effect upon the legal transfer of the business to the applicant and that the current owners of the business shall not be employed in the business under the new premises licence.

The parties then withdrew from the meeting in order to enable the Sub-Committee to determine the application. During their deliberations the Sub-Committee were of the view that further questions relating to the landlord of the premise should be answered to enable them to make an informed decision. Therefore all parties were invited to return. In responding to further queries the applicant and his spouse confirmed the name of the landlord and further that they did not have any association or connection with the landlord of the premises and that they were not aware there was any relationship between the landlord or current owner either.

The parties again 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 outlined the decision.

Resolved

That the grant of a premises licence in respect of Lake Discount Store, Lake Street, Lower Gornal, Dudley, be approved, subject to the following amendment and conditions, as follows:-

Amendment:-

Sale of Alcohol

Monday to Sunday inc 12.00 until 22.00

Conditions Imposed by Trading Standards:-

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. A4 notices will be displayed on the door and near to the point of sale advertising this policy.

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 competence 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 age, shall be refused service.
10. An Electronic Point of Sale (EPOS) system will be installed and used at the premises. The system will be used to scan all Age Restricted Products and prompt the staff to confirm that the buyer of any such product is over the age of 18 years before any sale of such goods can be completed.

Additional Conditions:-

1. The applicant will engage the services of a reputable training organisation for staff to ensure that the licensing objectives are upheld.
2. The grant of the premises licence shall only take effect upon the legal transfer of the business to the applicant and his spouse, and should they not proceed with the transfer, the licence shall not be granted. The transfer must be evidenced in writing and a signed copy of the signed transfer of business be provided to the Licensing Authority prior to the business opening.
3. The previous owners of the business and holder of the premises licence shall not be employed in the business under the new premises licence.

Reasons for Decision

This is an application for a premises licence in respect of premises known as Lake Discount Store, Lower Gornal. The licensed hours sought were 6.00am to 10.00pm seven days a week, which are also the proposed opening hours of the store.

The previous premises licence for this premise was revoked by the Licensing Committee on 2nd September, 2014. The decision was appealed to the Magistrates Court and the revocation was upheld in December 2014.

A number of representations have been received in response to the application, five from local residents (including the secretary to the local residents association), one from a ward councillor together with representations from the Licensing Authority, the police and Trading Standards.

The police stated that they had no objections to the new applicants, and the Licensing Authority also did not, provided that there was no connection between the new applicants and the previous premises licence holder (and indeed current owner of the premises). Trading Standards had these same concerns, but also had a concern regarding the proposed Designated Premises Supervisor. Local residents were concerned about a repeat of the previous anti social behaviour and under age sales of alcohol and tobacco from this store. The police evidence was that since the licence had been revoked the number of calls to the police had reduced dramatically.

The applicant accepted the “horrific” history of management which led to prosecutions and the eventual revocation of the premises licence in September 2014. The applicants stated that they had no connection with the previous license holders, were not related to them and had no friendship or business relationship. They also stated they had paid a deposit of £5000 and presented a draft agreement for sale of the business. The applicants planned to complete the transfer of the business as soon as possible, if the application is granted.

The landlord is J and G Investments and the applicants stated that they had no relationship with the landlord whatsoever.

The applicants were prepared to alter the time for the sale of alcohol from 12.00 noon until 10.00pm. They also confirmed that that the applicant would be the Designated Premises Supervisor and not the person named on the application form, despite him being a close friend, and that the applicant would reside in the premises with his adult son. Finally, they agreed to accept the ten conditions proposed by Trading Standards, and three others discussed this morning, as detailed above.

The Sub-Committee is satisfied that there is no connection between the applicants and the current owners of the business or the premises landlord. The Sub-Committee has some concerns about whether the applicants, with their relative inexperience, have the skills to manage these particular premises in the light of their “horrific” history. It also has concerns that the transfer of the business may not proceed, despite the best intentions of the applicants. However, on balance, the Sub-Committee finds that

there are no grounds to refuse the application, but finds that the imposition of the ten conditions proposed by trading standards, together with the three conditions, as outlined above, are necessary to uphold the licensing objectives. These must be strictly adhered to in this location. The premises license shall also reflect the new hours of 12.00 noon until 10.00pm, seven days a week.

The application is therefore granted.

4 **Application for Consent to Engage in Street Trading, Hagley Street, Halesowen**

A report of the Strategic Director (Resources and Transformation) was submitted on an application for consent to engage in street trading in respect of a site in Hagley Street, Halesowen.

Following introductions by the Chair, the Licensing Clerk presented the report on behalf of the Council and it was noted that there were no objections.

The applicant, Mr P Guy was in attendance at the meeting and following the presentation of his case responded to queries from Members and in doing so stated that staff would be fully trained and that his spouse was qualified and experienced in catering.

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 application for the grant of Consent to Engage in Street Trading in respect of a site in Hagley Street, Halesowen, be approved from 9th June, 2015 to 31st October, 2015 and 1st April, 2016 to 8th June, 2016, Monday to Friday between the hours of 10.30 am to 17.00.

The meeting ended at 12.25 pm

CHAIR