

LICENSING SUB-COMMITTEE 3

TUESDAY 15TH JANUARY, 2013

AT 10.00 AM
COUNCIL CHAMBER
COUNCIL HOUSE
PRIORY ROAD
DUDLEY

If you (or anyone you know) is attending the meeting and requires assistance to access the venue and/or its facilities, could you please contact Democratic Services in advance and we will do our best to help you

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www.dudley.gov.uk


Dudley
Metropolitan Borough Council

IMPORTANT NOTICE

MEETINGS IN DUDLEY COUNCIL HOUSE

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Your ref:

Our ref:
KT

Please ask for:
Karen Taylor

Telephone No.
01384 818116

3rd January 2013

Dear Member

Meeting of Licensing Sub-Committee 3 – Tuesday 15th January, 2013

You are requested to attend a meeting of Licensing Sub-Committee 3 to be held on Tuesday 15th January, 2013 at 10.00 am in the Council Chamber at the Council House, Priory Road, Dudley, West Midlands, DY1 1HF to consider the business set out in the Agenda below.

The agenda and reports for this meeting can be viewed on the Council's internet site www.dudley.gov.uk and follow the links to Meetings and Decisions.

Yours sincerely



Director of Corporate Resources

A G E N D A

1. APOLOGIES FOR ABSENCE

To receive apologies for absence from the meeting.

2. APPOINTMENT OF SUBSTITUTE MEMBERS

To report the appointment of any substitutes for this meeting of the Committee.

3. DECLARATIONS OF INTEREST

To receive declarations of interest in accordance with the Members' code of conduct.

LICENSING SUB-COMMITTEE 3

Tuesday 30th October, 2012 at 10.20 am
in The Council Chamber, The Council House, Dudley

PRESENT:-

Councillors Bills, Cowell and Taylor

Officers

Mr R Clark (Legal Advisor), Mrs J Elliott (Licensing Officer) and Mrs K Taylor (Directorate of Corporate Resources).

Also in attendance

Councillor Herbert (observer) and a member of the press.

14. ELECTION OF CHAIR

In the absence of the chair (Councillor K Finch) it was

RESOLVED

That Councillor Bills be elected Chair for this meeting of the Sub-Committee only.

(Councillor Bills in the Chair)

15. APOLOGIES FOR ABSENCE

Apologies for absence from the meeting were received on behalf of Councillors M. Aston, K. Finch and James.

16. APPOINTMENT OF SUBSTITUTE MEMBERS

It was reported that Councillors Bills, Cowell and Taylor had been appointed as substitute Members for Councillors M. Aston, K. Finch and James respectively for this meeting of the Sub-Committee only.

17. DECLARATIONS OF INTEREST

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

18. MINUTES

RESOLVED

That, the minutes of the meeting held on 25th September 2012, be approved as a correct record and signed.

19. APPLICATION FOR REVIEW OF PREMISES LICENCE – 135 PRIORY ROAD, DUDLEY

A report of the Director of Corporate Resources was submitted to consider an application for the review of a premises licence in respect of 135 Priory Road, Dudley.

Mr T Raj, Designated Premises Supervisor, was in attendance together with his Solicitor, Mr D Campbell and a supporter.

Also in attendance were Mr C King, Principal Trading Standards Officer and Mr G Wintrip, Age Restricted Products Enforcement Officer, both from the Directorate of the Urban Environment.

Following introductions, Mrs J Elliott, Licensing 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 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 15th August, 2012, a sixteen year old child test purchaser had been 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 further noted that on 1st July, 2011 and 3rd February, 2012 complaints had been submitted alleging that alcohol had been sold to underage persons.

Mr King stated that on 4th May, 2012 a test purchase exercise had been conducted at the premises, where no sale had been made.

On 10th July, 2012 an officer from Trading Standards carried out a visit to the premises and spoke to a Miss H Randhewa, who was an employee and niece of the Designated Premises Supervisor, Mr Raj. It was noted that Mr Raj was not at the premises. The purpose of the visit was to provide advice in relation to preventing underage sales of age restricted products, information in respect of acceptable proof of age and the importance of keeping a refusals register. Miss Randhewa 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, and was requested to deliver the information to Mr Raj to ensure that all staff were aware of their obligations under the Licensing Act 2003. She was also informed that test purchasing was carried out at premises. It was reported that during the course of this visit, Miss Randhewa signed a form to acknowledge receipt of the information pack.

Mr King further stated that on 15th August, 2012, Trading Standards together with West Midlands Police, carried out a test purchasing exercise to determine compliance with the law on the sale of alcohol to children. On that occasion, a sixteen year old female test purchaser volunteer purchased a 70cl bottle of Caribbean Twist Mixed Mango drink, 4% alcohol by volume. The seller made no attempt to ask the age of the volunteer, and did not ask for identification.

Following the sale, and having returned to the premises, it was discovered that the individual who sold the alcohol to the test purchaser had been a Miss K Kaur. It was noted that Mr Raj was not present at the premises at the time of the sale.

During the questioning of Miss Kaur in respect of the sale, she stated that she had thought that the test purchaser volunteer appeared to be eighteen years old.

Mr Raj then attended the premises and spoke to officers where he confirmed that there was a refusals register for the premises but that he could not locate it. Mr Raj was also unable to produce any training records for the members of staff who worked at the premises.

It was further noted that on inspection of the premises, the only Age Restricted Products poster displayed was that relating to the offence of proxy sales.

Miss Kaur was then issued with a Fixed Penalty Notice.

Mr King further stated that on 17th August, 2012 Mr G Wintrip attended the premises following a request by Mr Raj who presented the refusals register which was seen to have a large number of entries listed.

A full list of proposed additional conditions which had been suggested by Trading Standards had been circulated to all parties prior to the meeting.

Reference was made to the additional information submitted prior to the meeting, in order to amplify concerns raised in relation to the poor management of the premises. Mr Campbell stated that the information supplied by a local resident was based on allegations and that there were no actual proof submitted.

Mr Campbell then referred to the suggested conditions submitted by Trading Standards, and confirmed that Mr Raj accepted all conditions except for condition number eight which stated that no supply of alcohol may be made under the premises licence at a time when the Designated Premises Supervisor does not hold the Level Two Award for Designated Premises Supervisors. Mr Campbell stated that this condition was not necessary, as it had been confirmed that Mr Raj had previously undertaken the training.

In responding to a question by Mr Campbell, Mr King confirmed that by implementing the conditions it might address the concerns expressed by Trading Standards.

Mr Campbell then presented the case on behalf of Mr Raj, and in doing so stated that Mr Raj had taken the matter seriously, and accepted that the sale on 15th August, 2012 had taken place by Miss Kaur.

Reference was made to the statement submitted by Mr Raj, which had been circulated to all parties prior to the meeting, in particular of the training programme that would be implemented. It was noted that employees would be retrained and within a week they would be expected to complete a competency test together with a document to be signed to confirm their understanding of the law.

It was further noted that Mr Raj had intended to operate the Challenge 25 policy, maintain the refusals register, retain CCTV footage to allow any reasonable authority to review, and to display all appropriate signage in the premises.

Reference was then made to conditions submitted which had been suggested by West Midlands Police, Mr Campbell confirmed that Mr Raj was agreeable to all conditions except for the condition that stated that a SIA trained person to be at the store from the hours of 1900 hours until closing, as it would be inappropriate to include this as a condition of licence.

It was noted that Mr Raj had been the victim of serious crime, and had been assaulted resulting in injury by robbers and recently there had been an attempted robbery at the premises, resulting in Mr Raj engaging the services of a SIA registered door supervisor.

In responding to a question by Mr Campbell, Mr Raj confirmed that he understood that if he breached any conditions of licence then the Sub-Committee would review the matter and that he regretted that the sale had been made.

In responding to comments made by Mr Campbell in respect of the condition submitted by West Midlands Police in regard to the SIA registered person being present at the premises, the Licensing Officer confirmed that it would not be appropriate to attach the condition on the licence.

In responding to comments made in regard to the training adopted before and after the sale, Mr Campbell stated that training had been developed following the sale on 15th August, and although training had taken place prior to the sale it had not been documented.

In responding to a question by a member in regard to how vigorous the competency test was for employees, Mr Campbell confirmed that the test would ensure all employees understood the law and implications following a sale of age restricted products to underaged persons. He further confirmed that Mr Raj had delivered the training and all employees had passed the test.

Concerns were raised in regard to the lack of training to members of staff and Mr Raj's understanding of the training that he had undertaken whilst obtaining his Personal Licence, Mr Campbell responded by indicating that training had now been implemented and referred to the test purchase exercise on 4th May, 2012 which had resulted in a refusal of sale.

In responding to a question by a member in relation to the employment of Miss Kaur, Mr Raj confirmed that Miss Kaur had been employed for three to four weeks when the sale on 15th August, 2012 had taken place and although she had received training she had made a mistake on that day. It was further noted that at the time of the sale, Miss Kaur was the only member of staff at the premises.

In responding to a question by the Licensing Officer, Mr Campbell confirmed that Mr Raj undertook the evening shift alongside the SIA register door supervisor, and during the day there were one member of staff at the premises, which Mr Raj considered to be sufficient.

Mr King then referred to Mr Raj's statement that he did not accept condition eight, as there had been conflicting statements made today that indicated that Mr Raj had undertaken a Level Two Award for Designated Premises Supervisor, and that he was concerned that if Mr Raj had undertaken the training that it had not been implemented or understood correctly. Mr Campbell stated that Mr Raj did not realise he had taken the qualification, and that as it was confirmed that he had received training there were no reason to attach the condition to his licence.

In responding to comments made by the Legal Advisor in regard to the condition in regard to the Level Two Award and given that Mr Raj held the qualification the condition would not be imposing anything that Mr Raj would have to undertake, Mr Campbell stated that Mr Raj would be agreeable for the condition to be attached to the licence.

In responding to a question by the Legal Advisor, Mr Raj confirmed that Miss Randhewa did inform him of the visit by Trading Standards on 10th July, 2012, but failed to mention that test purchase exercises would be carried out at the premises in the future. He also confirmed that the information pack presented to Miss Randhewa had been given to Mr Raj, however Mr Raj did not read all the contents, as he did not understand the information.

In responding to a question by the Legal Advisor in regard to the failure to locate the refusals register following the sale on 15th August, 2012, Mr Raj stated that the refusals register was placed under the counter, however it had been misplaced within a large amount of paperwork. It was further noted that Miss Kaur was aware that the register was under the counter, but that she had been confused.

Reference was made to comments made and it was apparent that the issues raised were not primarily in regard of one unlawful sale, but of the poor management of the premises by Mr Raj.

Following comments made in regard to the number of entries on the refusals register, Mr Raj confirmed that on average two to three underaged persons per week attended the premises in order to purchase alcohol, but that the refusals had been entered into the register. Mr Raj then presented the refusals register for the Sub-Committee to view.

Mr Wintrip then referred to comments made by Mr Campbell and informed the Sub-Committee that when he requested the refusals register Miss Kaur was unable to locate it, and that there were only one poster on display at the premises in respect of proxy sales. It was noted that when Mr Wintrip revisited the premises on 17th August, 2012, there were posters displayed in regard to Challenge 25.

In summing up, Mr Campbell stated that Mr Raj accepted that there was a sale of alcohol to an underaged person on 15th August, 2012 and that he considered it to be a mistake. He further stated that the employee responsible for the sale, Miss Kaur, was no longer employed by Mr Raj, and that all employees had now been trained and tested. Mr Campbell asked that the Sub-Committee consider that the modification of Mr Raj's licence by implementing the conditions suggested by Trading Standards and West Midlands Police would address the concerns raised rather than revocation or suspension.

In responding to a question by the Chair, all parties confirmed that they had a fair hearing.

Following comments from all parties, the Legal Advisor stated that the Sub-Committee would determine the application made on the information submitted and comments made at the meeting by all parties.

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 135 Priory Road, Dudley : -

- (1) 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 aware of this policy.
- (2) Valid proof of identification only to 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.
- (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 Premises Licence Holder shall check 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 the Trading Standards Department and/or Police.
- (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 the point off 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 the Trading Standards Department and/or Police. All staff are to be trained to work the CCTV and are able to download when required to do so and the cameras are to be operational during working hours.
- (8) No supply of alcohol may be made under the premises licence at a time when the Designated Premises Supervisor does not hold the Level 2 Award for Designated Premises Supervisors. Proof of qualification shall be provided to the Police and/or an officer of the Trading Standards Department upon request.
- (9) All persons engaged to sell alcohol will have completed a training programme which included a written test to verify the competency of that person prior to them being authorised to sell alcohol.
- (10) 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.
- (11) 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 10. This file shall be available for inspection an officer the Trading Standards Department and/or Police upon request.

REASON FOR DECISION

The Sub-Committee has listened to significant evidence from both parties to this review application. Mr Raj has accepted the underage sale in August, 2012 and the Sub-Committee also notes that there was a test purchase in May 2012 when the purchase was refused.

Mr Raj has also accepted that he has not fully implemented his level 2 Designated Premises Supervisor training undertaken two years ago delivered by Wolverhampton City Council. He did not fully read the information pack given to him by Trading Standards in July 2012. Specifically, the refusals register was not available for the member of staff on the day of the test purchase or to Trading Standards. The only poster on display was on proxy sales.

The Sub-Committee accepts that the conditions put forward by trading standards will address the concerns highlighted by this underage sale and they are reasonable and proportionate. Mr Raj agrees all of these conditions except number eight which refers to the Level 2 Designated Premises Supervisors training, which he says he has undertaken, and this is accepted. However, the Sub-Committee has attached this as a general condition of licence. The Sub-Committee also strongly recommends that Mr Raj undertakes the level 2 training again upon his apparent admission that he did not recall undertaking this training and had not implemented it.

20. APPLICATION FOR REVIEW OF PREMISES LICENCE – 24 PRIORY ROAD, DUDLEY

A report of the Director of Corporate Resources was submitted to consider an application for the review of a premises licence in respect of 24 Priory Road, Dudley.

Mrs T Raguvannan, Designated Premises Supervisor, was in attendance together with her Solicitor, Mr P Burke and her husband, Mr R Rasuathurai.

Also in attendance were Mr C King, Principal Trading Standards Officer and Mr G Wintrip, Age Restricted Products Enforcement Officer, both from the Directorate of the Urban Environment.

Following introductions, Mrs J Elliott, Licensing 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 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 15th August, 2012, a sixteen year old child test purchaser had been 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 further noted that on 14th May, 2010 additional conditions were attached to the premises licence following the sale of alcohol to a fifteen year old test volunteer, at this time the premises were owned by different owners and a different Designated Premises Supervisor. It was noted that the premises subsequently closed on 27th April, 2011.

Mr King further stated that Mrs Raguvannan currently lived in Northampton.

On 10th July, 2012 an officer from Trading Standards carried out a visit to the premises and spoke to a Mr S Nagahara, Mrs Raguvannan was not at the premises at that time. The purpose of the visit was to provide advice in relation to preventing underage sales of age restricted products, information in respect of acceptable proof of age and the importance of keeping a refusals register. Mr Nagahara 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, and was requested to deliver the information to Mrs Raguvannan to ensure that all staff were aware of their obligations under the Licensing Act 2003. He was also informed that test purchasing was carried out at premises. It was reported that during the course of this visit, Mr Nagahara signed a form to acknowledge receipt of the information pack.

Mr King further stated that on 15th August, 2012, Trading Standards together with West Midlands Police, carried out a test purchasing exercise to determine compliance with the law on the sale of alcohol to children. On that occasion, a sixteen year old female test purchaser volunteer purchased a 700ml bottle of WKD Blue, 4% alcohol by volume. The seller made no attempt to ask the age of the volunteer, and did not ask for identification.

Following the sale, and having returned to the premises, it was discovered that the individual who sold the alcohol to the test purchaser had been a Mr R Rasuathurai, who informed officers that he lived at the premises. It was noted that Mrs Raguvannan was not present at the premises at the time of the sale.

During the questioning in regard of the sale, Mr Rasuathurai had difficulty in responding due to his apparent poor English but did not deny selling the alcohol. He was unable to produce any evidence of formal training but did admit that he knew that a person needed to be eighteen to purchase alcohol.

It was further noted that on inspection of the premises it was ascertained that the old premises licence was displayed, there were no Age Restricted Products poster displayed and there were no entries listed in the refusals register since it had been issued on 10th July, 2012.

It was further noted that the bottle of WKD Blue purchased by the volunteer did not display any label identifying the premises as specified in the conditions which had been attached to the premises licence on 14th May, 2010.

Mr Rasuathurai was then issued with a Fixed Penalty Notice.

Mr King further stated that Mrs Raguvannan had not contacted Trading Standards since the sale despite being requested to do so.

A full list of proposed additional conditions, which had been suggested by Trading Standards, had been circulated to all parties prior to the meeting.

At this juncture, the Licensing Officer informed the Sub-Committee that an application had been granted on 24th October, 2012 for the transfer of the Designated Premises Supervisor from Mrs Raguvannan to Mr Rasuathurai.

Mr Burke then presented the case on behalf of Mrs Raguvannan, and in doing so stated that Mrs Raguvannan and Mr Rasuathurai operated another premises in Northampton for five years and there had been no issues or concerns. He also informed the Sub-Committee that Mr Rasuathurai was not the seller identified on 15th August, 2012, and that it was a Mr S Nagahara who gave a false name to officers and West Midlands Police. It was noted that Mr Nagahara was no longer employed at the premises.

In view of the new information presented to the Sub-Committee in particular that Mr Rasuathurai is now the Designated Premises Supervisor, and the claim that he had not been the seller on 15th August, 2012, the Sub-Committee requested that the meeting be adjourned until 1.30pm.

All parties returned to the meeting at 1.35 pm.

Mr King referred to the information presented to the Sub-Committee earlier in the meeting, and stated that he was satisfied that the seller on 15th August, 2012 was not Mr Rasuathurai and was Mr Nagahara, which was also confirmed by Mr Wintrip who had been present at the time of the sale.

Reference was made to the Fixed Penalty Notice given to Mr Nagahara, Mrs Raguvannan confirmed that she had paid the fixed penalty notice as she considered it was her duty given that the sale had occurred at the premises. Mr Wintrip confirmed that he would liaise with the West Midlands Police in respect of the false information given.

Mr Burke then proceeded to inform the Sub-Committee of his clients background, and in doing so stated that the main reason for Mr Rasuathurai to be confirmed as the Designated Premises Supervisor was due to him becoming more involved with the premises than Mrs Raguvannan, as she would continue to be the Designated Premises Supervisor in Northampton.

In responding to a question by a member, Mr Burke confirmed that both Mrs Raguvannan and Mr Rasuathurai lived in Northampton, and that there were one member of staff who worked at the premises who was reliable and currently obtaining his personal licence.

Reference was made to the statement submitted by West Midlands Police in particular concerns raised in regard to the attempts to access the CCTV, the reporting of the hard drive being stolen, and that Mrs Raguvannan and Mr Rasuathurai had been uncooperative. Mr Burke stated that the statement was incorrect and that his clients had submitted all information relating to Mr Nagahara to West Midlands Police.

It was further noted that a training system would be implemented which would be delivered by both Mrs Raguvannan and Mr Rasuathurai.

Mr Burke then referred to the suggested conditions submitted by Trading Standards and West Midlands Police, and confirmed that his clients accepted all conditions and suggested that two additional conditions be attached to the licence.

- (1) That a Personal Licence Holder be present at the premises at all times.
- (2) That all members of staff to be trained to download CCTV data in order to be reviewed.

Mr Burke further stated that Mrs Raguvannan and Mr Rasuathurai had been disappointed by members of staff who they had trusted at the premises.

Concerns were raised in regard to Mrs Raguvannan and Mr Rasuathurai residing in Northampton and the management of the premises. Mrs Raguvannan stated that she was unable to relocate to Dudley, but that Mr Rasuathurai would be attending the premises on a daily basis and residing at the premises at weekends. Mr Burke further confirmed that there would be one member of staff who had been employed at the premises since it had opened who would supervise in Mr Rasuathurai's absence.

Reference was made to the West Midlands Police statement, which stated that the CCTV system had been concealed under a suspended ceiling in the premises rendering it impracticable to access. Mrs Raguvannan stated that the ceiling tile was not fixed and easily accessible, and that she did not provide staff with access to passwords, as she feared the staff could have deleted data. She further stated that she had since trained a member of staff to access the data and provided him with a password.

The Licensing Officer informed the Sub-Committee that the additional conditions attached to the premises licence on 14th May, 2010 would have been transferred to Mrs Raguvannan's premises licence.

In responding to a question by Mr Wintrip, Mr Burke confirmed that Mr Rasuathurai did obtain a Level 2 Award for Designated Premises Supervisor.

In summing up, Mr Burke stated that Mr Rasuathurai had now become the Designated Premises Supervisor and therefore would have more involvement with the premises. He further stated that Mr Rasuathurai and Mrs Raguvannan had been let down by former members of staff and wished to mirror their success from Northampton to Dudley.

In responding to a question by the Chair, all parties confirmed that they had a fair hearing.

Following comments from all parties, the Legal Advisor stated that the Sub-Committee would determine the application made on the information submitted and comments made at the meeting by all parties.

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 amended to the premises licence, no further action to be taken in relation to the review of the premises licence in respect of 24 Priory Road, Dudley : -

- (1) 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.
- (2) Valid proof of identification only to include passport, photographic driving licence (picture card) or a Proof of Age Standards Scheme (PASS) proof of age card such as Citizen card.
- (3) A4 notices to be displayed on the door to the premises where the alcohol is being offered for sale and near the point of sale stating "if you look under 25 please do not be offended if we ask for proof of age when you buy alcohol".
- (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 Premises Licence Holder shall check 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 the Trading Standards Department and/or Police.
- (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 the point off 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 DPS or a named responsible person shall review the premises' CCTV on a daily 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 a responsible authority and all staff are to be trained in respect of the workings of the CCTV and are able to download recordings when required to do so.
- (8) The DPS shall ensure that all persons authorised to sell alcohol will have completed a training programme which includes a written test to verify the competency of that person.
- (9) The DPS shall conduct monthly reviews with any persons authorised to sell alcohol in order to reinforce training, promote best practice and policy.
- (10) The DPS shall maintain a file at the shop 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 any responsible authority upon request.
- (11) All alcohol sold must be clearly labelled with the name of the premises.
- (12) Relevant checks must be made in respect of all staff to be employed, including full name, address, date of birth together with a photocopy of proof of identity (i.e. passport / driving licence).
- (13) A Personal Licence Holder will be present on the premises at all times.

REASON FOR DECISION

The Sub-Committee has heard significant evidence presented by both parties.

The parties agreed today that the premises now have a new Designated Premises Supervisor, Mr Raguvannan Rasuathurai (DOB 21/10/79), from 24th October, 2012. The parties are also in agreement that Mr Raguvannan Rasuathurai was not the member of staff who made the underage sale on 15th August, 2012. It is alleged that the member of staff making the sale gave false details to the police and Trading Standards. The Sub-Committee has no reason to doubt any of this new information.

The Sub-Committee has concluded that the proposed conditions to the licence, which are agreed between the parties, should address the concerns, which have arisen, and are both reasonable and proportionate.

The Premises Licence Holder has today recognised that these premises have given rise to significantly more concerns and issues in ten months than their original premises have done in five years. For this reason, they recognise that the management of these premises require extra vigilance.

21 APPLICATION FOR CONSENT TO ENGAGE IN STREET TRADING – MR AND MRS BRIDGEWATER – HIGH STREET / PECKINGHAM STREET, HALESOWEN

A report of the Director of Corporate Resources was submitted on an application made by Mr and Mrs Bridgewater for the grant of consent to engage in street trading in High Street / Peckingham Street, Halesowen.

Mr and Mrs Bridgewater, Applicants, were in attendance at the meeting.

Also in attendance at the meeting was Mr P Vangeersdaele, Group Engineer - Traffic & Road Safety, Directorate of the Urban Environment.

Following introductions the Licensing Officer presented the report on behalf of the Council.

Following a brief discussion it was

RESOLVED

That the application made by Mr and Mrs Bridgewater for the grant of consent to engage in street trading in High Street / Peckingham Street, Halesowen be approved.

The meeting ended at 2.40pm

CHAIR

Licensing Sub-Committee 3 – 15th January 2013

Report of the Director of Corporate Resources

Street Trading Consent – F A Smith

Purpose of Report

1. To consider the application made by Mr. F A Smith for the renewal and variation of his street trading consent to sell hot dogs, burgers, fries, bacon, sausage, eggs, tomatoes, beans, mushrooms, hot and cold drinks and ice cream in Market Place, Dudley; Birmingham Street, Dudley; Upper High Street, Dudley; and Junction of Foster Street/High Street, Stourbridge.

Background

2. Mr Smith has held a street trader's consent for a number of years, which has subsequently been renewed with the last licence expiring on the 10th June, 2012.
3. This consent enables Mr. Smith to sell hot dogs, burgers, fries, bacon, sausage, eggs, tomatoes, beans, mushrooms, hot and cold drinks and ice cream from sites in Dudley and Stourbridge Town Centres.
4. On the 9th June 2000, Mr Smith made application to renew his consent.
5. The application was circulated to the then Environment, Engineering and Transportation Department, Planning and Leisure Department and Support Services. There were no objections to this application.
6. On the 13th June 2000, a letter of complaint was received which was brought to the attention of the Committee.
7. The then Policy (Licensing) Sub-Committee considered the application on the 5th December 2000 and resolved that the application be granted. That licence was subsequently renewed.

8. On the 11th March 2005, Mr Smith made application for the variation of his street trading permit in Stourbridge Town Centre. The West Midlands Police made objections to the application.
9. On the 1st June 2005, Mr Smith made application for the renewal of his street traders permits. These applications were circulated as in paragraph 5 above. None of the agencies raised objections.
10. Various letters of objection were received from local traders in the Stourbridge area.
11. This matter was due to be considered by the Committee on the 19th December 2005. The matter was deferred pending a meeting between Mr Smith and the West Midlands Police on the 12th January 2006.
12. It was decided following the meeting on the 12th January 2006, that Mr Smith make application for a temporary street trading consent at an alternative site in High Street, Stourbridge for a trial period to be set by the Licensing Sub-Committee.
13. On the 9th May 2006, the matter to renew/vary Mr Smith's application was considered by the Licensing Sub-Committee where it was resolved that the application be granted for the same times and conditions as the previous consent.
14. This licence was subsequently renewed.
15. On the 6th June 2008, Mr Smith made application for the renewal of his street traders permits. This application was circulated to the Directorate of the Urban Environment, Town Centre Manager, Corporate Estates and the West Midlands Police.
16. Objections were received from the Engineering and Transportation Department of the Directorate of the Urban Environment.
17. Objections were also received from Corporate Estates and the Town Centre Manager. None of the other agencies raised objections.
18. This matter was considered by the Sub-Committee on the 2nd September 2008. The Committee resolved that Mr Smith's application be granted.
19. That licence has subsequently been renewed and bears the expiry date of the 10th June 2012.
20. On the 7th June 2012, Mr Smith made application for the renewal and variation of his street trader's consent.
21. Mr Smith's request was for the renewal of three of his existing sites as set out in the application and the relocation of one of his sites (Birmingham Street) back to its original location as set out in street map 2 attached to the application. Mr Smith also requested to sell baked potatoes at that location instead of hot-dogs and burgers. Mr Smith also included with his application a photograph of the unit intended to be used.

22. Mr Smith informed the Licensing Office that should the Committee resolve to refuse his application for the variation of the Birmingham Street site, that it was his intention to surrender the site in Birmingham Street as its current location is too far from pedestrian flows to be worthwhile.
23. A copy of Mr Smith's application along with existing and proposed site plans and photographs has been circulated to Committee Members and interested parties.
24. This application was also circulated as in paragraph 15 above.
25. The Directorate of the Urban Environment (Highways) made comments which have been circulated to the Committee Members and interested parties. None of the other agencies raised any objections.
26. This matter was due to be considered by the Sub-Committee on 28th August 2012. The Committee resolved at the request of the applicant due to ill health that the matter be deferred.
27. On 20th November 2012, Mr Smith's son informed the Licensing office that his father was still in hospital and that he was currently dealing with all his affairs. Mr Smith's son also requested that the matter now be put before the Licensing Committee and that he be permitted to attend in his father's absence.
28. This application falls within the Council's responsibility for licensing as a direct link to the Council's key corporate priority that safety matters.

Finance

29. There are no financial implications.

Law

30. The grant of consents to engage in street trading is governed by Part III of Schedule IV to the Local Government (Miscellaneous Provisions) Act 1982. High Street, Market Street, Birmingham Street, Dudley and Foster Street, Stourbridge are consent street designated as such by a resolution of the Council. To trade without such a consent is an offence.
31. Where the consent allows the holder to trade from a car, barrow or other vehicle then the consent must specify the location from which the trader may trade and the times between which or periods for which he may trade.
32. Paragraph 7(2) of Schedule IV of the 1982 Act, states that the Council may grant a consent if it thinks fit and, when granting or renewing a consent, the Council may attach such conditions as it considers necessary.
33. There is no right of appeal against the Council's decision to vary a condition upon which a consent is issued, or refusal to grant or renew a street trader's consent.

Equality Impact

34. This report takes into account the Council's policy on equal opportunities.
35. There has been no consultation or involvement of children and young people in developing these proposals.

Recommendation

36. That the Sub-Committee determine Mr Smith's application.



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DIRECTOR OF CORPORATE RESOURCES

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List of Background Papers

Licensing Sub-Committee 3 – 15th January 2013

Report of the Director of Corporate Resources

Application for House to House Collections Licence

British Forces Foundation (Midlands Textiles Limited)

Purpose of Report

1. To consider the application for the grant of a House to House Collections Licence in respect of Midlands Textiles Limited on behalf of the charity known as British Forces Foundation.

Background

2. On 9th October 2012, Sergei Sedlovski of Midland Textiles Limited made application for a House to House Collections Licence in respect of the charity British Forces Foundation. A copy of that application has been forwarded to Committee members and interested parties.
3. In January 1999, the Licensing Section in accordance with the Neighbouring Authorities Working Group introduced a policy requiring all House to House Collection applicants to submit income and expenditure accounts for the previous financial year.
4. In recent years applications for House to House Collections have been received from independent commercial companies undertaking collections on behalf of specific charities. Therefore in November 2009, the Council introduced a further policy that applicants for House to House Collection Licences be required to submit with the application income and expenditure accounts for the previous financial year of the charity for which the collection is being made and also for the company or organisation making the collection. This is to ensure that a substantial amount of the monies collected are used for charitable purposes. A copy of those accounts have been circulated to Committee Members and interested parties.
5. Copies of the application were circulated to the West Midlands Police and the Directorate of the Urban Environment (Highways). These agencies raised no objections to the application.
6. This application has been delayed due to the Licensing office awaiting the submission of accounts by Midland Textiles Limited.

7. This report has a direct link to the Council's policy for safety as the principal reason for submission is safeguarding the public.

Finance

8. There are no financial implications.

Law

9. House to house collection permits are governed by Section 2 of the House-to-House Collections Act 1939.
10. The Council may refuse to grant a licence or where a licence has been granted may revoke it if it appears to the Authority:-
- (a) that the total amount likely to be applied for charitable purposes as the result of the collection (including any amount already so applied) is inadequate in proportion to the value of the proceeds likely to be received (including any proceeds already received).
 - (b) that remuneration which is excessive in relation to the total amount aforesaid is likely to be, or has been, retained or received out of the proceeds of the collection by any person.
 - (c) that the grant of a licence would be likely to facilitate the commission of any offence under section three of the Vagrancy Act 1824, or that an offence under that section has been committed in connection with the collection.
 - (d) that the applicant or the holder of the licence is not a fit and proper person to hold a licence by reason of the fact that he has been convicted in the United Kingdom of any offences specified in the Schedule to this Act, or has been convicted in any part of His Majesty's dominions of any offence conviction for which necessarily involved a finding that he acted fraudulently or dishonestly, or of any offence of a kind the commission of which would be likely to be facilitated by the grant of a licence.
 - (e) that the applicant or the holder of the licence, in promoting a collection in respect of which a licence has been granted to him, has failed to exercise due diligence to secure that persons authorised by him to act as collectors for the purposes of the collection were fit and proper persons, to secure compliance on the part of persons so authorised with the provisions of regulations made under this Act, or to prevent prescribed badges or prescribed certificate of authority being obtained by persons other than persons so authorised.
 - (f) that the applicant or holder of the licence has refused or neglected by furnish to the authority such information as they may have reasonably required for the purpose of informing themselves as to any of the matters specified in the fore-going paragraphs.

11. If the Committee refuse to grant a licence or revoke a licence which has been granted. There is a right of appeal within 14 days to the Secretary of State against the refusal or revocation of licence.

Equality Impact

12. This report takes into account the Council's policy on equal opportunities.
13. There has been no consultation or involvement of children and young people in developing these proposals.

Recommendation

15. That the Committee consider the applications for House to House Collections Licence in respect of Midlands Textiles Ltd on behalf of the charity known as British Forces Foundation.



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List of Background Papers

Licensing Sub-Committee 3 – 15th January 2013

Report of the Director of Corporate Resources

Application for House to House Collections Licence

A Smile for a Child (Fox Recycling Ltd)

Purpose of Report

1. To consider the application for the grant of a House to House Collections Licence in respect of Fox Recycling Ltd on behalf of the charity known as A Smile for a Child.

Background

2. On 29th October 2012, Mr Jeffrey Dowie of Fox Recycling Ltd made application for a House to House Collections Licence in respect of the charity A Smile for a Child. A copy of that application has been forwarded to Committee members and interested parties.
3. In January 1999, the Licensing Section in accordance with the Neighbouring Authorities Working Group introduced a policy requiring all House to House Collection applicants to submit income and expenditure accounts for the previous financial year.
4. In recent years applications for House to House Collections have been received from independent commercial companies undertaking collections on behalf of specific charities. Therefore in November 2009, the Council introduced a further policy that applicants for House to House Collection Licences be required to submit with the application income and expenditure accounts for the previous financial year of the charity for which the collection is being made and also for the company or organisation making the collection. This is to ensure that a substantial amount of the monies collected are used for charitable purposes. A copy of those accounts have been circulated to Committee Members and interested parties.
5. Copies of the application were circulated to the West Midlands Police and the Directorate of the Urban Environment (Highways). These agencies raised no objections to the application.

6. This report has a direct link to the Council's policy for safety as the principal reason for submission is safeguarding the public.

Finance

7. There are no financial implications.

Law

8. House to house collection permits are governed by Section 2 of the House-to-House Collections Act 1939.
9. The Council may refuse to grant a licence or where a licence has been granted may revoke it if it appears to the Authority:-
 - (a) that the total amount likely to be applied for charitable purposes as the result of the collection (including any amount already so applied) is inadequate in proportion to the value of the proceeds likely to be received (including any proceeds already received).
 - (b) that remuneration which is excessive in relation to the total amount aforesaid is likely to be, or has been, retained or received out of the proceeds of the collection by any person.
 - (c) that the grant of a licence would be likely to facilitate the commission of any offence under section three of the Vagrancy Act 1824, or that an offence under that section has been committed in connection with the collection.
 - (d) that the applicant or the holder of the licence is not a fit and proper person to hold a licence by reason of the fact that he has been convicted in the United Kingdom of any offences specified in the Schedule to this Act, or has been convicted in any part of His Majesty's dominions of any offence conviction for which necessarily involved a finding that he acted fraudulently or dishonestly, or of any offence of a kind the commission of which would be likely to be facilitated by the grant of a licence.
 - (e) that the applicant or the holder of the licence, in promoting a collection in respect of which a licence has been granted to him, has failed to exercise due diligence to secure that persons authorised by him to act as collectors for the purposes of the collection were fit and proper persons, to secure compliance on the part of persons so authorised with the provisions of regulations made under this Act, or to prevent prescribed badges or prescribed certificate of authority being obtained by persons other than persons so authorised.
 - (f) that the applicant or holder of the licence has refused or neglected by furnish to the authority such information as they may have reasonably required for the purpose of informing themselves as to any of the matters specified in the fore-going paragraphs.

10. If the Committee refuse to grant a licence or revoke a licence which has been granted. There is a right of appeal within 14 days to the Secretary of State against the refusal or revocation of licence.

Equality Impact

11. This report takes into account the Council's policy on equal opportunities.
12. There has been no consultation or involvement of children and young people in developing these proposals.

Recommendation

13. That the Committee consider the applications for House to House Collections Licence in respect of Fox Recycling Ltd on behalf of the charity known as A Smile for a Child.



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List of Background Papers