

## LICENSING SUB-COMMITTEE 4

Tuesday 22<sup>nd</sup> January, 2013 at 10.15 am  
in the Council Chamber, The Council House, Dudley

### PRESENT:-

Councillor Roberts (Chair)  
Councillors Perks and Taylor

### Officers: -

Mr R Clark (Legal Advisor), Mrs L Rouse (Licensing Clerk), Mrs K Taylor  
and Miss L Mason (Observer) – All Directorate of Corporate Resources.

---

34      DECLARATIONS OF INTEREST

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

---

35      MINUTES

### RESOLVED

That the minutes of the meeting of the Sub-Committee held on 6<sup>th</sup>  
November, 2012, be approved as a correct record and signed.

---

36      APPLICATION FOR REVIEW OF PREMISES LICENCE – SELECT AND  
SAVE, WOODS LANE, QUARRY BANK

A report of the Director of the Corporate Resources was submitted on an  
application for the review of the premises licence in respect of Select and  
Save, Woods Lane, Quarry Bank.

Mr S Logeswaran, Designated Premises Supervisor was in attendance at  
the meeting, together with his representative, Mr D Carr.

Also in attendance were Mr C King, Principal Trading Standards Officer  
and Mrs L Ingram, Enforcement Officer, both from the Directorate of the  
Urban Environment, PC A Taylor from West Midlands Police and a  
member of the press.

Following introductions by the Chair, the Licensing Clerk 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 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 with respect to the sale of alcohol to children.

Mr King informed the Sub-Committee that on 26<sup>th</sup> October, 2012, a fifteen 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 noted that a test purchase exercise had been undertaken at the premises on 12<sup>th</sup> February, 2007, resulting in alcohol being sold to children. On that occasion, Mr Logeswaran stated that he was the owner of the premises but not the designated premises supervisor; therefore Mr Logeswaran was issued with a warning letter.

It was further noted that test purchase exercises had also been carried out in August, 2011, December 2011 and March 2012, which all resulted in a refusal of sale.

Mr King further stated that on 26<sup>th</sup> October, 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 fifteen year old male test purchaser volunteer purchased a bottle of WKD Blue Vodka with 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 Ms J Williams. When questioned Ms Williams stated that it was her first day back, from a six-month absence, and that her 'eyes were not too good', she was then issued with a Fixed Penalty Notice.

On inspection of the premises, it was noted that the Refusals Register had been used and "Challenge 25" and proxy sales posters were displayed at the premises.

Mr King informed the Sub-Committee that the Fixed Penalty Notice issued to Ms Williams had not been paid.

It was further noted that on 26<sup>th</sup> October, 2012, Trading Standards carried out nine test purchasing exercises together with the same volunteer, and that the premises were the only one which had resulted in a sale of alcohol.

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

PC Taylor then presented the representations of West Midlands Police and in doing so informed the Sub-Committee that the Police had carried out regular patrols in the vicinity and had not received any feedback from the public or local businesses to indicate any problems with the premises such as anti-social behaviour or incidents of crime.

Mr Carr then presented the case on behalf of Mr Logeswaran, and in doing so stated that Mr Logeswaran and his members of staff actively promoted the licensing objectives, and that there had been a number of successful test purchase exercises carried out at the premises.

Mr Carr further stated that Ms Williams had received minimal training, and that she was no longer employed at the premises.

It was noted that Mr Logeswaran had recently undertaken a Level Three Designated Premises Supervisors course, and that a member of his staff had successfully completed the Level Two Award. Mr Carr informed the Sub-Committee that it was the intention of Mr Logeswaran to provide training to ensure that all members of staff completed a level one award.

Mr Carr then presented a document to the Sub-Committee outlining the training that had been given to employees.

In responding to a question by Mr King in relation to Mr Logeswaran not being contactable away from the premises, Mr Logeswaran stated that he would be agreeable to allow his contact details to be displayed at the premises to ensure that he was contactable at all times.

In responding to a question by a member, Mr Carr stated that the training provided to members of staff was undertaken via an interactive online course or an instructor led course which were carried out by various teachers in different languages.

Mr Logeswaran also informed the Sub-Committee that when an age restricted product had been scanned in to the register, a reminder message was displayed to prompt the member of staff to ask for identification.

Reference was made to the proposed additional conditions that had been submitted by Trading Standards and West Midlands Police, where Mr Carr confirmed that Mr Logeswaran was in agreement with the proposals, however he did consider that the condition requesting Mr Logeswaran to undertake monthly training reviews were too rigorous and asked for them to be extended to a six monthly period.

Reference was made to the condition that requested that a file be maintained at the premises for each person authorised to sell alcohol; Mr Carr confirmed that his colleague, a Ms J Taylor, was currently preparing all the necessary paperwork to ensure that Mr Logeswaran correctly adhered to all the conditions should they be attached to the licence. He further stated that Mr Logeswaran understood the consequences should he breach any condition of his licence.

In responding to a question by the Legal Advisor, Mr Carr informed the Sub-Committee that Ms Williams had been an employee for a period of twelve months on a part time basis, and that she had received verbal training by Mr Logeswaran, and on her return following a six month leave of absence, she did not receive any refresher training.

Mr Carr assured the Sub-Committee that the incident would not occur again, and any future test purchasing exercises would result in a refusal of sale.

Reference was made to Mr Carr's statement requesting that monthly training reviews be extended to a longer period of time; Mr King requested that the condition remain at monthly reviews in view of any staff changes that may occur in the future.

Reference was made to the training document submitted to the Sub-Committee, Mr King stated that there appeared to be a lot of emphasis on areas such as fake identification badges, and advised that if the seller had any doubts in respect of the identification presented, then to refuse the sale.

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

Following all comments, 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, and that any decision made must be reasonable and proportionate.

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 Select and Save, Woods Lane, Quarry Bank : -

## Conditions

- (1) A written Proof of Age Policy is to be put in force, which all staff authorised to sell alcohol will be trained in and adhere to. Valid proof of identification will only include passport, photographic driving licence or a Proof of Age standards Scheme (PASS) proof of age card such as Citizen card. No other form of identification shall be accepted.
- (2) 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 any responsible authority.
- (3) 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 of sale area can be viewed. All images are to be recorded and kept for a minimum of 28 days and made immediately available to any responsible authority upon request.
- (4) 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 any responsible authority.
- (5) CCTV to be recording at all times the premises are open for any licensable activity and the Hard Drive to be locked but readily accessible to staff (i.e. not in a roof space). All staff to be fully trained and able to operate and download CCTV.
- (6) 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 officer of any responsible authority.
- (7) All persons engaged to sell alcohol will have completed a training programme – to a minimum of level one, which includes a written test to verify the competency of that person prior to them being authorised to sell alcohol. A record of this training will be recorded in writing.

- (8) 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. These monthly reviews will be recorded in writing.
- (9) 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 8. This file shall be made available for inspection by any officer from a responsible authority upon request.
- (10) A Challenge 25 Policy shall be strictly adhered to.

### REASONS FOR DECISION

The Sub-Committee has heard an application for a review of the premises licence for Select and Save. The review has been brought on the basis of the sale of alcohol to an underage male on 26<sup>th</sup> October, 2012.

The Licence Holder and Designated Premises Supervisor has accepted the conditions proposed by Trading Standards and the Police, and has given evidence that new training for all staff will be put in place, and he has undertaken updated training himself to Designated Premises Supervisors Level Three the previous week. The Sub-Committee is very concerned about the circumstances of this underage sale, but finds that the imposition of the conditions proposed should address the concerns about training for all staff, and finds that the imposition of these conditions is proportionate to the nature of the failed test purchase, and should remedy these concerns.

The conditions have been amended to avoid duplication.

---

The meeting ended at 11.25 am

CHAIR