

Since the sale, he has undergone training for licensed premises, has passed his personal licence exams and that his application for a personal licence is being processed. His wife is undergoing the appropriate exams. He has paid the £90 fixed penalty notice.

Mr Kumar also produced his hand written refusals register for the Sub-Committee, which appears to have been well used, despite the under age sale on 16th October, 2013.

There are no additional conditions which the Sub-Committee can add to the premises as full conditions were attached on 20th August, 2013.

Mr Kumar now has paid a fixed penalty notice and stated that his business is now much improved, and that he is committed to running the business well and successfully. He has invested £60,000 into it.

The Sub-committee therefore takes no further steps today. However it does want to highlight the importance, specifically conditions 6, 7 and 8, which relate to training and quality monitoring. The Sub-Committee does not expect to be hearing a further review of this premises licence in the light of the assurances given by Mr Kumar today.

41

APPLICATION FOR REVIEW OF PREMISES LICENCE –
BROCKMOOR CONVENIENCE STORE / PREMIER, 49 HIGH
STREET, BROCKMOOR, BRIERLEY HILL

A report of the Director of Corporate Resources was submitted on an application for the review of the premises licence in respect of Brockmoor Convenience Store / Premier, 49 High Street, Brockmoor, Brierley Hill.

Mr J Chand, Premises Licence Holder and Designated Premises Supervisor was in attendance at the meeting.

Also in attendance were Mr C King, Trading Standards Officer, and Mr G Wintrip, Age Restricted Products Enforcement Officer, both from the Directorate of the Urban Environment and Ms D McNulty, Office of Public Health.

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

Mr King then presented the representations of Trading Standards and in doing so highlighted that the grounds of 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 2nd October, 2013, a fifteen year old female 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.

On 28th February, 2013, an advisory visit was carried out at the premises, the purpose of the visit was to provide advice in relation to preventing underage sales of age restricted products, and Mr Chand, who was present at the time, was given detailed advice including information in respect of acceptable proof of age and the importance of keeping a refusals register. Mr Chand was also 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. He was also requested 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, Mr Chand also signed an ARP form 0806 to acknowledge receipt of the information pack during the visit.

Mr King further stated that on 2nd October, 2013, Trading Standards together with West Midlands Police, carried out a test purchase exercise to determine compliance with the law on the sale of alcohol to children. On that occasion, a fifteen year old female child test purchase volunteer purchased a bottle of VK Tropical 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 Kiszka. When questioned, Ms Kiszka admitted making the sale.

On inspection of the premises, it was noted that there were no Age Restricted Products displayed, and when Mr Chand returned to the premises shortly after the sale had been made, he reported that refusals were recorded electronically on the till register. Ms Kiszka was then issued with a Fixed Penalty Notice.

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

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

Mr Chand then presented his case and in doing so informed the Sub-Committee that he accepted the evidence presented by Trading Standards, and the potential health consequences of underage alcohol sales. He stated that he had been in a management position over the last five years, over twenty premises, and he had taken the matter very seriously.

He further stated that Ms Kiszka was employed on a eight day trial for a management position, however following the sale of alcohol to a child on 2nd October, 2013 he was not satisfied with Ms Kiszka's attitude or explanation for the sale. It was noted that Ms Kiszka's contract was terminated.

Reference was made to there being no age restricted product posters displayed at the time of the sale; Mr Chand stated that the shop had recently undergone refurbishment due to water damage, and as a result, the underage sales posters were not displayed. This has now been resolved.

Mr Chand referred to the refusals register and explained that although refusals were entered electronically on the till register, they could not be printed out. He stated that the registers had been recently upgraded to allow a print out of sales with reasons for refusals.

It was further noted that following the sale on 2nd October, 2013, Mr Chand re-trained his employees, and requested that they question customers that appeared to be in their late twenty's.

In responding to a question by Mr King, Mr Chand confirmed that he worked at the premises on evenings and for the majority of the day, and on the day of the sale he had attended another premises to deal with an issue, and believed Ms Kiszka to be suitable to manage the premises in his absence.

In responding to a question by the Chair, Mr Chand confirmed that he was in agreement with the conditions suggested by Trading Standards, and that he had paid the fixed penalty notice issued by officers.

In summing up, Mr Chand stated that this was the first occasion he had attended a Sub-Committee and that the sale highlighted problems with Ms Kiszka, which resulted in her contract being terminated.

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 Brockmoor Convenience Store / Premier, 49 High Street, Brockmoor, Brierley Hill: -

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 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) 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 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 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 the age of 18, shall be refused service.

REASONS FOR DECISION

This is a review of a premises licence as a result of a sale of alcohol to a fifteen year old test purchaser, by a Ms J Kiszka, an employee at Brockmeor Convenience Store / Premier. Ms Kiszka admitted the sale and accepted a fixed penalty notice. The test purchase took place on 2nd October, 2013.

Mr J Chand attended the Sub-Committee. He is the Premises Licence Holder and Designated Premises Supervisor. He accepted that at the time of the sale, there were no age restricted product posters on display, despite advice being provided to Mr Chand by Trading Standards on 28th February, 2013.

Mr Chand accepts the evidence presented by Trading Standards, and accepts the potential health consequences of underage alcohol sales.

Ms Kiszka, at the time of the test purchase, was on an eight day trial. Mr Chand was not satisfied regarding her explanation for the sale, and her employment has been terminated.

The shop has recently undergone refurbishment due to water damage, and as a result, the underage sales poster was no longer up. This has now been rectified.

At the time of the sale, the refusals of sale were registered on the tills, but could not be printed out. The tills have been upgraded to allow a print out of sales with reasons for refusals. He told the Sub-Committee that he was very sorry for the failed purchase.

Mr Chand accepts the conditions put forward by Trading Standards. The Sub-Committee finds that the imposition of these conditions does address this under age sale, and are a proportionate step to address the issues arising in this case. It therefore imposes the conditions on the premises licence, and takes no further steps today.

The meeting ended at 2.20 pm

CHAIR