

Minutes of the Licensing Sub-Committee 2

Tuesday 27th August, 2019 at 10.45 am
in the Council Chamber, The Council House, Dudley

Present:-

Councillor M Evans (Chair)
Councillors J Baines and P Drake

Officers:-

L Rouse – Senior Licensing Clerk (Licensing and Waste Enforcement) (Place Directorate), R Clark – Principal Solicitor and K Buckle – Democratic Services Officer (Chief Executive's Directorate).

12 **Declarations of Interest**

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

13 **Minutes**

Resolved

That the minutes of the Licensing Sub-Committee 2 meeting held on 23rd July, 2019, be approved as a correct record and signed.

14 **Application for Review of a Premises Licence – Darby End Stores, 63B Northfield Road, Dudley**

A report of the Strategic Director Place was submitted on an application for a review of the premises licence in respect of Darby End Stores, 63B Northfield Road, Dudley.

The following persons were in attendance at the meeting:-

Mr H Singh – Premises Licence Holder and Designated Premises Supervisor (DPS)
Mr S Panchal – Licensing Advocate
Mr D Singh – Manager
Ms K Turley – West Midlands Police
Ms D Jenkins – West Midlands Police
Mr G Southall – Public Health
Mr R Jones – Trading Standard Officer
Mr G Vaughan – HM Immigration Officer

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

Mr R Jones presented the facts of the case relating to the prevention of crime and disorder and the protection of children from harm under the Licensing Act 2003, and outlined the reasons that had resulted in the application being made for the review of the premises licence.

It was noted that on 18th June, 2019 a 16 year old test purchaser was sold alcohol namely, two bottles of WKD alcohol both with a 4% ABV from the premises contrary to Section 146(1) of the Licensing Act 2003 and in direct contravention of the licensing objectives.

The Sub-Committee was informed of the circumstances surrounding the underage sale, in that Mr D Singh had not requested sight of the test purchaser's identification, although further investigations had revealed that the till prompt had worked correctly producing a Challenge 25 command automatically when alcoholic items were scanned. However the prompt had been ignored, with Mr D Singh failing to show due diligence.

It was noted that Mr H Singh was unable to produce a Refusals Register for the premises and had stated that there had not been one present for the previous four months, whilst the store was undergoing a refurbishment. All other statutory and advisory notices including those relating to 'No ID No Sale' were correctly displayed.

Mr D Singh had stated that he had been the Manager of the premises for eight to nine months and admitted to the underage sale, advising that "she looked younger I mean older, I thought she was 18".

The Sub-Committee was also informed that a further lack of due diligence had occurred by the owner of the premises employing an Indian National who had no right to be in, or to work in the United Kingdom, following an unrelated incident on 13th June, 2019 when he was found to be in sole charge of the premises and admitted being present on that occasion as an unpaid 'helper'. Despite no other staff members being present he had ready access to the keys to the store and was unable to name anyone connected to the management of the premises. HM Immigration checks had revealed that he had been illegally in the United Kingdom since his Visa expired in 2011.

The employment arrangements were not compliant with numerous employment standards.

The Sub-Committee was advised that despite the sale of the business to a Mr Didar Singh some eight to nine months previous, the premises licence remained with Mr H Singh (former owner), as did the role of DPS. During this time Mr Didar Singh had not appeared to take an interest in the running and management of the licence and had taken no steps to transfer the premises licence to himself or consider the role of the DPS.

Mr G Southall reported on the impact on the health of adolescents as a consequence of alcohol consumption. It was stated that the sale of alcohol to a young person was very serious and Public Health supported the recommendation to revoke, suspend or impose additional conditions on the licence on the grounds of protecting children from harm.

Ms D Jenkins then presented the representations of West Midlands Police and in doing so informed the Sub-Committee that it was considered that the sale of alcohol to a young person was in direct contravention of the licensing objective to protect children from harm and therefore fully supported Trading Standards in the request for a review of the premises licence and supported the recommendation to revoke, suspend and impose additional conditions on the licence.

Mr G Vaughan Immigration Officer referred to the circumstances surrounding the immigration visit as outlined above and in doing so also advised the Sub-Committee that Mr Didar Singh had also employed illegal workers at another premises, and asserted that he would not be a responsible premises licence holder and therefore fully supported Trading Standards.

The Licensing Advocate presented the case on behalf of the premises owner, licence holder and DPS, referring to the mistake that had been made in selling alcohol to an underage purchaser, referring to subsequent steps that had been taken to promote the licensing objectives, including a training manual and a right to work checklist. There would also be a Refusal and Incident book.

The premises licence holder proposed additional conditions in order to rectify the issues that had come to light in June, 2019. It was also asserted that there would be a process for employment and for staff training. The future presence of a Refusals Register at the till together with appropriate signage for the sale of age restricted products, would also be provided.

It was noted that it was intended to change the DPS and the premises licence holder within the next week. However it was further noted that the proposed DPS had not completed the course for a personal licence but was due to on Wednesday 28th August, 2019. In the meantime Mr H Singh would be managing the day to day business in the store and would remain the premises licence holder and the DPS.

Mr H Singh advised Members that he visited the shop four times each week as a customer and advisor due to his previous involvement, and had run the business with his wife for 20 years.

At this juncture, all parties were provided with the opportunity to sum-up their cases.

Mr R Jones raised concerns in relation to the current premises owner, being dissatisfied with the way in which he had managed the premises during the preceding eight to nine months, failing to conduct appropriate checks and failure to deal with the transfer of the business licence. Mr R Jones was satisfied that the proposed steps to suspend and attach conditions to the premises licence would be insufficient, due to the current premises owner not conducting his duties appropriately.

Similar concerns were raised by Public Health and West Midlands Police and it was believed that the imposition of conditions would not address the fundamental issues that the review had brought to light.

The Licensing Advocate again requested a short 21 day suspension of the licence in order to deal with transferring the premises licence and appointment of the new DPS, with the conditions circulated to all parties being attached to the licence. Following this, all parties were asked to withdraw from the meeting to enable the Sub-Committee to determine the application.

The Sub-Committee having made their decision invited all parties to return and the Principal Solicitor outlined the decision.

Resolved

That, following careful consideration of the information contained in the report submitted and as presented at the meeting, the premises licence in respect of the premises known as Darby End Stores, 63B Northfield Road, Dudley, be revoked.

The Licensing Advocate was advised of the right of appeal.

The meeting ended at 12.30 pm.

CHAIR