

Licensing Sub-Committee

Monday, 18th June, 2012

PRESENT: Councillor Gettings in the Chair

Councillors G Hussain and P Latty

18 Election of the Chair

RESOLVED – Councillor Gettings was elected Chair for the duration of this meeting.

19 Exempt Information - Possible Exclusion of the Press and Public

RESOLVED – That the press and public be excluded from the meeting during consideration of the following parts of the agenda designated exempt as follows:

Appendix D referred to in Minute No. 22 under the provisions of Paragraph 14 of the Licensing Act 2003 (Hearings Regulations 2005) and under the provisions of Access to Information Procedure Rule 10.4(2).

20 Late Items

No formal late items of business were added to the agenda for the meeting, however additional information had been submitted on behalf of the Premises Licence Holder in relation to agenda item 6 (Minute No. 22 refers).

21 Declarations of Interest

There were no declarations of interest.

22 "BestOne" - Review of a premises licence for BestOne/Seacroft Village Green, 1063 York Road, Leeds LS14 6JB

The Sub-Committee considered an application for the review of a Premises Licence under Section 51 of the Licensing Act 2003, submitted by West Yorkshire Police in respect of BestOne/Seacroft Village Green, 1063 York Road, Leeds, LS14 6JB.

Appendix D to the report was designated exempt under the provisions of Paragraph 14 of the Licensing Act 2003 (Hearings Regulations 2005) and under the provisions of Access to Information Procedure Rule 10.4(2).

The hearing was attended by the following:

- Inspector Emmett, West Yorkshire Police
- PC Dobson, West Yorkshire Police
- Mr Patterson, West Yorkshire Police
- Mr and Mrs Sandhu, Premises Licence Holder / Store Manager
- Mr Coen, Premises Licence Holder representative
- Mr Cox, Local resident in support of the Premises Licence Holder
- Mr Mitchell, Local resident in support of the Premises Licence Holder
- Mr Parker, Local resident in support of the Premises Licence Holder.

PC Dobson addressed the Sub-Committee and made the following points:

- There had been three failed test purchases at the premises and a review had been brought in part for that reason and in part for the impact that the shop had on the local area. There were failed test purchases in February and July 2011 and throughout the summer of 2011 there had been a problem solving initiative in the area which had produced information that the premises were impacting adversely upon local residents.
- There was alcohol fuelled anti-social behaviour including that caused by street drinkers with convictions. These were young and older people well known in the area. After the second failed test purchase, PC Dobson visited the premises but felt that the response had been disinterested and negative. The premises had not taken matters sufficiently seriously.
- The problem solving initiative had ended in autumn of 2011 but some residents were still unhappy with problems in the area though they would not give statements to the Police. On 17 March 2012 there had been a further test purchase at the shop where alcohol had been sold to a 14 year old girl.

Inspector Emmett addressed the Sub-Committee and made the following points:

- The main reason for the Review was the protection of children. Other premises had failed test purchases but had put matters right. No other premises in the area had failed more than once. These were the only premises in the area with a failed test purchase that had not had an Action Planning Meeting and did not want to meet or engage with the Police.

In summary, PC Dobson made the following points:

- PC Dobson took the Licensing Sub-Committee through the Refusals Register and Training Records for the premises and highlighted perceived inadequacies.
- The Police view was that revocation was required. Although the Committee could remove the DPS, he would still be the Premises Licence Holder and could not be removed from that post. The Police were not asking for the premises to be shut per se but simply for the licence for alcohol sales to be revoked as they did not believe that he could manage that part of the business and that the evidence showed that he had not done so in the past.
- In relation to conditions, PC Dobson made it clear that should the Licensing Sub-Committee be minded to impose conditions, those proposed by the Licence Holder did not go far enough. Regard needed to be had to the Proforma Risk Assessment Version 6 for the appropriate wording of certain conditions. PC Dobson also asked that consideration be given to a condition requiring the Premises License Holder to be on site at all times and present on the shop floor rather than simply on the premises.

In response to questions, the following points were made:

- PC Dobson clarified that all three test purchase failures had been by different sellers two of whom were still employed at the premises. The Police were not

presenting this as a case of persistent under age sales as defined in the legislation but three test purchases was too many.

- Mr Coen wished to challenge the Police evidence. After discussion it was agreed that he could make submissions and call evidence from the Licence Holder to challenge the Police version of events rather than by asking questions of the Police.

Mr Coen, on behalf of the Premises Licence Holder, addressed the Sub-Committee and made the following points:

- This was a small shop run by the premises licence holder and his wife since 2008 which was their sole source of income. The shop opened from 8.00 am to 8.30 pm and the sales figures were roughly 30% alcohol and 70% foods, newspapers and lottery, etc. The shop had CCTV although this was not required with 8 cameras in total.
- He apologised unreservedly on behalf of the Licence Holder for the three test purchases which were a matter of fact though his view was that it was 3 out of 10 (including those in 2009 and those conducted by other organisations) rather than the 3 in 7 contended for by the Police. Each time there had been a failed test purchase, the premises had put measures in place and reinforced the procedures to staff. Neither the Licence Holder nor his wife had made the sales personally. The Training Record and Refusals Log were not what one would expect from a major retail operation but were a decent effort for the size of this particular business.
- He noted that representations had been submitted independently by residents in support of the Licence Holder. They had not been scripted by the premises and should be given considerable weight. He highlighted that there was no evidence of repeated visits by PCSO's in relation to alcohol fuelled ASB. There was simply one record of a meeting with PC Dobson in August 2011. The Licence Holder had clearly asked whether he should be serving the individuals highlighted by the Police. He had been given advice that he must not sell to someone who was drunk and must observe Licensing Law. That he had done.
- In particular Mr Coen refuted any allegation that the Licence Holder or his wife would carry out reprisals against residents, that being the basis upon which it had been suggested that residents had failed to write in to support the Police.
- In relation to conditions, Mr Coen submitted the conditions proposed on behalf of the Licence Holder were reasonable and proportionate as a response to the situation. The condition requiring a Personal Licence Holder on site at all times was unnecessary, unworkable and disproportionate. It would prevent the Licence Holder ever leaving the shop for example in the case of a family emergency.

Local residents were then invited to address the Sub-Committee and made the following points:

- The shop was vital to the local community, that they had personally witnessed a refusal of sale by the Licence Holder in which the individual had been abusive and aggressive, that there were problems in relation to other stores

selling alcohol in the local area and that the anti-social behaviour occurred outside the times that these premises were open.

In response to questions, the following points were made:

- The Licence Holder confirmed that there would be a significant impact on the shop business should the Alcohol Licence be revoked though it was not possible to put any statistical figures to this.

The Sub Committee then carefully considered all the written and verbal submissions and made the following decision:

RESOLVED – The Licensing Sub-Committee were not persuaded that revocation of the Licence was necessary and proportionate in this particular case. They did not find, on the basis of the evidence presented to them and taking on board the additional evidence of local residents, that there was sufficient causal link between the problems of alcohol fuelled anti-social behaviour in the area and the management of these premises.

However there had been three failed test purchases and that must be considered to be serious. Whatever the number of passed test purchases, one failed test purchase was one too many.

The Licensing Sub-Committee felt that the imposition of conditions was necessary to promote the Licensing Objectives and imposed the following conditions.

- 1 The premises must have an approved CCTV system on the premises. The exact wording of those CCTV conditions to reflect conditions 6PF001, 7, 8, 10, 11,12 and 14 of the Version 6 Proforma Risk Assessment issued by Leeds City Council.
- 2 A proof of age scheme condition should be imposed worded as per condition 34 of the Version 6 Proforma Risk Assessment issued by Leeds City Council.
- 3 A Refusals Register must be kept by the premises using consecutively numbered pages including the full name of the person refusing the sale, date and time of refusal and description of the person refused sale.
- 4 The Refusals Register must be kept for a minimum of 36 months and produced for inspection on request to a member of staff of the Licensing Authority or West Yorkshire Police.
- 5 The Premises Licence Holder must complete a nationally accredited training course on sale of age restricted products within 6 months of the date of this decision. A copy of the Certificate should be provided to the Licensing Authority.
- 6 All staff employed at the premises must be trained by the Premises Licence Holder in the sale of age restricted products, such training to take place within 3 months of the Premises Licence Holder completing the nationally accredited

course.

- 7 All staff must be trained on the sale of age restricted products on the commencement of their employment and every six months thereafter.
- 8 Training Records must be kept for all staff and made available for inspection on request by a member of staff from the Licensing Authority or West Yorkshire Police.
- 9 The Premises Licence Holder must attend three-monthly Review Meetings with West Yorkshire Police for the next 12 months (from the date of this decision).

The Licensing Sub-Committee did not consider it was proportionate in the context of a business this size to require a Personal Licence Holder on site at all times. However, should there be repeat of test purchase failures despite these conditions that would be a very serious matter.