

Licensing Sub-Committee

Tuesday, 18th September, 2012

PRESENT: Councillor C Townsley in the Chair
Councillors N Buckley and G Wilkinson

58 Election of the Chair

Councillor Townsley was elected Chair of the meeting

59 Late Items

Although there were no formal late items, the Sub-Committee was in receipt of the following additional information which had been circulated to all parties after the agenda had been despatched:

A clearer copy of Appendix A which was attached to the submitted report

Further written information submitted on behalf of the premises licence holder (minute 61 refers)

60 Declarations of Disclosable Pecuniary and Other Interests

There were no declarations of disclosable pecuniary interests or other interests

61 'Kasa' - 278 Belle Isle Road Leeds LS10 - Review of a Premises Licence

The Sub-Committee considered an application made by West Yorkshire Trading Standards Service (WYTSS) under Section 51 of the Licensing Act 2003 for the Review of a Premises Licence in respect of Kasa, Belle Isle Road LS10

The following were present at the meeting:

Mr Mullins – WYTSS

Ms Sutton – WYTSS

Ms Staniland – WYTSS

PC Arkle – West Yorkshire Police (WYP)

Sgt Berriff – WYP

PCSO McClellan – WYP

Mr Whur – solicitor for the Premise Licence Holder

Mr Aqueel Bashir – Licence Holder

Mr Shakil Bashir – Designated Premises Supervisor

Mr Adeel Bashir – the owner of the premises

Councillor K Groves – Ward Member

Councillor P Truswell – Ward Member

The Licensing Officer presented the report and the Sub-Committee heard firstly from WYTSS

Mr Mullins presented the application for the review of the premises licence and outlined the visit by WYTSS in September 2011 following a complaint which had been received. This visit had resulted in four samples being taken from alcohol on the premises which were then sent for analysis. Following on from this, Mr Adeel Bashir was interviewed and was unable to meet his legal obligations in respect of traceability of products; in one case there was also mis-description of a product. This resulted in criminal proceedings against Mr Adeel Bashir who pleaded guilty to the offences and received a fine. Through liaison with other Responsible Authorities, WYTSS became aware of wider concerns relating to the prevention of crime and disorder through activities at the premises and therefore together with the fact that trading standards offences had been committed sought a review of the premises licence on the basis that the licensing objective of preventing crime and disorder and public safety were no longer being upheld

Members were informed that to remedy this situation that the premises licence should be suspended for 3 months to allow systems to be put in place to prevent these matters from occurring in the future

In response to a question from the Sub-Committee, Mr Mullins confirmed that the analysis of the four samples did not reveal any substances which were alien to the products, although in one case, the alcoholic strength of the product was not as expected

The Sub-Committee then heard representations from West Yorkshire Police PC Arkle referred to local intelligence WYP had received about alcohol being sold from the premises to under 18s together with complaints about noise and disturbance around the Kasa site, with the last local intelligence being received on 2nd August 2012. Whilst 7 test purchases had been carried out at the premises none had been failed, despite the continued complaints about underage selling. This had led WYP to conclude that alcohol was being sold to local under 18s rather than to strangers. As it was felt there had to be a reason why youths congregated around the Kasa site, this tied in with underage selling of alcohol

Reference was made to the finding and seizing of stolen whisky on the premises by WYP. Although no charges were subsequently brought in connection with this, PC Arkle was of the view that this indicated the willingness of the operators to purchase alcohol from unreliable sources, with this incident coming two days before the visit of WYTSS in 2011

Sergeant Berriff and PCSO McClellan stated they had received reports of youths drinking outside the premises. The source of the alcohol being consumed was given as Kasa, with some youths stating they had managed to purchase it from Kasa and in some cases had asked older people to purchase it for them

PC Arkle indicated support for the measures suggested by WYTSS and asked for additional measures to be put in place to prevent the sale of alcohol to under 18s, with these relating to stricter conditions on CCTV and siting of cameras; the provision of registers to log incidents and refusals and a Check 25 scheme to be in operation

The Sub-Committee then heard from Councillor Groves who stated that concerns had been raised about the premises with the Middleton Park Councillors by

the local community and at tasking meetings, with particular concerns being anti-social behaviour, with 19 calls being made in one evening in relation to the premises and the area around it. Concerns were also raised about underage drinking; the noise and disturbance around the site and the fact that alcohol from unreliable sources had been found on the premises, and the possible impact on the health of residents if this had been found to contain foreign substances

Councillor Groves referred to the good work Kasa had done in the community by sponsoring events but expressed her disappointment that the health and wellbeing of local residents was not being properly considered by the operators

The Licensing Sub-Committee then heard from Mr Whur who stated that the review had been launched by WYTSS against the licensing objectives of the prevention of crime and disorder and public safety and related to an incident which had occurred a year ago and had been dealt with through the courts. Therefore to seek a 3 month suspension of the licence would be further punishment. Mr Whur also referred to WYP's support for this review on the basis of the licensing objective of the protection of children from harm, particularly in view of the 7 test purchases which had been carried out on the premises, all of which had been passed

Mr Whur explained that the response of WYP in this matter had not been graduated; there had been no interaction with the operators, which they would welcome and that of the sanctions open to the Licensing Sub-Committee, the second most serious sanction was being pressed for by WYTSS and WYP, which in the circumstances was disproportionate

Mr Whur referred to an audit he had carried out on the premises and stated that the CCTV system which was in operation there was first rate, with further measures being in place which included a refusals register; a till prompt for the sale of alcohol and notices of the Check 25 system being around the premises. The problems of local underage youths trying to purchase tobacco and alcohol could be seen by the copies of the refusals register circulated to all parties and that the systems which were in operation at the premises together with policies and training were what Licensing Sub-Committee would want to see from operators. The difficulty of proxy sales outside off-licences was known and Kasa was willing to work with the police and Ward Members to ensure this issue was addressed

In relation to the incident of stolen whisky being found by WYP, Members were informed that this had not been stored on the licensed premises and Shakil Bashir had produced a receipt for the purchase of this alcohol. In respect of the alcohol sampled by WYTSS, Mr Adeel Bashir explained the acquisition of this from a passing trader was due to his inexperience of the industry. Mr Whur stated that systems had now been put in place to ensure this situation could not occur again

In response to a question from the Sub-Committee, it was stated that 91% of the trade at the premises was from sales of alcohol

Mr Whur referred to conditions 9, 10 and 11 of the premises licence and requested these be removed as they were not relevant and related to the former use of the premises as a public house

The Sub-Committee carefully considered both the written and verbal representations from WYTSS, WYP, Councillor Groves and Mr Whur. Members also had regard to the Amended Guidance issued under Section 182 of the Licensing Act 2003 in relation to Reviews

Licensing Sub-Committee considered that this case could be dealt with through modifying conditions and imposed the following conditions from the Licensing Act 2003 Proforma Risk Assessment V6:

CCTV

Conditions 6PF001 – 6PF014 (inclusive), with the exception of 6PF004, which was not required

DPS

Conditions 6PF015 and 6PF016

Door Supervisors and other Security Staff

Conditions 6PF022 – 6PF024 (inclusive) relating to the incident register and similar conditions relating to the refusals register

Responsible sale of alcohol

Conditions 6PF034 and 6PF035

Litter

Condition 6PF081

In addition to the above conditions which were agreed to by Mr Whur on behalf of his clients, additional conditions be imposed relating to provision of refresher training for staff to be carried out quarterly and retention of invoices for alcohol sales for 12 months and for these to be made available for inspection by the Local Authority or other Responsible Authority

A further condition was proposed by Members requiring the Premises Licence Holder or the Designated Premises Supervisor to be present at all times when alcohol was available for sale. The Panel noted the concerns raised through Mr Whur about the practicality of this, however, given the seriousness of the incidents which had occurred at the premises, the Licensing Sub-Committee imposed this condition, with an implementation date of 4 weeks from the date of the decision

In respect of conditions 9,10 and 11 of the existing premises licence, that only condition 11 be removed. In relation to a matter raised about the embedded restrictions, it was decided to deal with this by way of a minor variation application

RESOLVED - To modify the conditions of the licence as set out above and to ask that West Yorkshire Police work with the operators of the premises as requested by their legal representative