



Report of the Director of Legal and Democratic Services

Licensing Committee

Date: 2 December 2008

Subject: Dawn Josephine Smith trading as Farnley Stores of 47-49 Cross Lane, Farnley, Leeds LS12 5AA – appeal against Licensing Committee decision on application for a review of the premises licence

Electoral wards affected:

Farnley and Wortley

Specific implications for:

Ethnic minorities

Women

Disabled people

Narrowing the gap

Executive Summary

1. This Report advises Members of the result of an Appeal by Dawn Josephine Smith trading as Farnley Stores against a decision of the Licensing Committee sitting on 14th January 2008. The original hearing took place following an application for a review of the premises licence made by West Yorkshire Trading Standards Service (WYTSS). After considering the evidence from the WYTSS, the West Yorkshire Police and one of the local councilors, Councilor Ann Blackburn, the Sub-Committee decided to revoke the premises licence. Mrs Smith appealed against that decision.

1.0 Purpose of this report

- 1.1 The purpose of this Report is to advise Members of the result of this appeal.

2.0 Background information

2.1 Members are advised that an appeal was lodged with the Leeds Magistrate's Court and the appeal hearing took place on 7 and 8 October 2008.

3.0 Main issues

3.1 The appeal was upheld in part by the Magistrate's Court. The magistrates stated that the West Yorkshire Trading Standards Service was right and proper in bringing the review. The magistrates heard a history of problems with the premises namely under age persons being sold alcohol and of two failed test purchases. The court also heard about an attempted test purchase on 27 June 2008 when the sale of alcohol had been refused. The court heard that the problems had been when the Designated Premises Supervisor, Mrs Smith, had been in the shop and that she had served the under age persons. The court heard that since the review Mr Smith had taken a more active role in the running of the premises and that since January 2008 the instances of problems had been much reduced and that there had been a successful test purchase in June 2008 when the sale of alcohol to a minor had been refused. The case for the appellant was in effect that there had been substantial problems prior to the review but that there has since been a substantial improvement and that lessons had been learned. The court took the view that it was not necessary, in October 2008, to revoke the premises licence and they ordered that the decision of the Sub-Committee be substituted with an order that Mrs Dawn Josephine Smith be removed as the Designated Premises Supervisor. The appellant applied for her legal costs and the court determined that there should be no order for costs as they considered that the review had been properly brought and that the decision had been a proper decision at the time.

4.0 Implications for Council Policy and Governance

4.1 No significant implications identified.

5.0 Legal and Resource Implications

5.1 No order in respect of the appellant's costs was made by the court. However the Council will have to pay its own Counsel's fees and the in house legal costs.

6.0 Conclusions

6.1 Members are asked to note this information.

7.0 Recommendations

7.1 That Members note the contents of this Report.