

additional papers 1

Licensing Sub-Committee

Tue 8 Jun
2010
7.00 pm

Council Chamber
Town Hall
Redditch



www.redditchbc.gov.uk

Access to Information - Your Rights

The Local Government (Access to Information) Act 1985 widened the rights of press and public to attend Local Authority meetings and to see certain documents. Recently the Freedom of Information Act 2000, has further broadened these rights, and limited exemptions under the 1985 Act.

Your main rights are set out below:-

- Automatic right to attend all Council and Committee meetings unless the business would disclose confidential or “exempt” information.
- Automatic right to inspect agenda and public reports at least five days before the date of the meeting.
- Automatic right to inspect minutes of the Council and its Committees (or summaries of business undertaken in private) for up to six years following a meeting.
- Automatic right to inspect lists of background papers used in the preparation of public reports.
- Access, upon request, to the background papers on which reports are based for a period of up to four years from the date of the meeting.
- Access to a public register stating the names and addresses and electoral areas of all Councillors with details of the membership of all Committees etc.
- A reasonable number of copies of agenda and reports relating to items to be considered in public must be made available to the public attending meetings of the Council and its Committees etc.
- Access to a list specifying those powers which the Council has delegated to its Officers indicating also the titles of the Officers concerned.
- Access to a summary of the rights of the public to attend meetings of the Council and its Committees etc. and to inspect and copy documents.
- In addition, the public now has a right to be present when the Council determines “Key Decisions” unless the business would disclose confidential or “exempt” information.
- Unless otherwise stated, all items of business before the Executive Committee are Key Decisions.
- (Copies of Agenda Lists are published in advance of the meetings on the Council's Website:
www.redditchbc.gov.uk

**If you have any queries on this Agenda or any of the decisions taken or wish to exercise any of the above rights of access to information, please contact
Ivor Westmore
Committee Support Services**

**Town Hall, Walter Stranz Square, Redditch, B98 8AH
Tel: Fax: (01527) 65216
e.mail: ivor.westmore@redditchbc.gov.uk Minicom: 595528**

Welcome to today's meeting.

Guidance for the Public

Agenda Papers

The **Agenda List** at the front of the Agenda summarises the issues to be discussed and is followed by the Officers' full supporting **Reports**.

Chair

The Chair is responsible for the proper conduct of the meeting. Generally to one side of the Chair is the Committee Support Officer who gives advice on the proper conduct of the meeting and ensures that the debate and the decisions are properly recorded. On the Chair's other side are the relevant Council Officers. The Councillors ("Members") of the Committee occupy the remaining seats around the table.

Running Order

Items will normally be taken in the order printed but, in particular circumstances, the Chair may agree to vary the order.

Refreshments : tea, coffee and water are normally available at meetings - please serve yourself.

Decisions

Decisions at the meeting will be taken by the **Councillors** who are the democratically elected representatives. They are advised by **Officers** who are paid professionals and do not have a vote.

Members of the Public

Members of the public may, by prior arrangement, speak at meetings of the Council or its Committees. Specific procedures exist for Appeals Hearings or for meetings involving Licence or Planning Applications. For further information on this point, please speak to the Committee Support Officer.

Special Arrangements

If you have any particular needs, please contact the Committee Support Officer.

Infra-red devices for the hearing impaired are available on request at the meeting. Other facilities may require prior arrangement.

Further Information

If you require any further information, please contact the Committee Support Officer (see foot of page opposite).

Fire/ Emergency instructions

If the alarm is sounded, please leave the building by the nearest available exit – these are clearly indicated within all the Committee Rooms.

If you discover a fire, inform a member of staff or operate the nearest alarm call point (wall mounted red rectangular box). In the event of the fire alarm sounding, leave the building immediately following the fire exit signs. Officers have been appointed with responsibility to ensure that all visitors are escorted from the building.

Do Not stop to collect personal belongings.

Do Not use lifts.

Do Not re-enter the building until told to do so.

The emergency Assembly Area is on Walter Stranz Square.

Declaration of Interests: Guidance for Councillors

DO I HAVE A “PERSONAL INTEREST” ?

- Where the item relates or is likely to affect your **registered interests** (what you have declared on the formal Register of Interests)

OR

- Where a decision in relation to the item might reasonably be regarded as affecting **your own** well-being or financial position, or that of your **family**, or your **close associates** more than most other people affected by the issue,

you have a personal interest.

WHAT MUST I DO? **Declare the existence, and nature, of your interest and stay**

- The declaration must relate to specific business being decided - a general scattergun approach is not needed
- **Exception** - where interest arises only because of your membership of another **public body**, there is no need to declare unless you **speak** on the matter.
- You **can vote** on the matter.

IS IT A “PREJUDICIAL INTEREST” ?

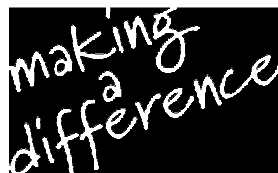
In general only if:-

- It is a personal interest and
- The item affects your **financial position** (or conveys other benefits), or the position of your **family, close associates** or bodies through which you have a **registered interest** (or relates to the exercise of **regulatory functions** in relation to these groups)

and
- A member of public, with knowledge of the relevant facts, would reasonably believe the interest was likely to **prejudice** your judgement of the public interest.

WHAT MUST I DO? **Declare and Withdraw**

BUT you may make representations to the meeting before withdrawing, **if** the public have similar rights (such as the right to speak at Planning Committee).



Licensing

Sub-Committee

8th June 2010

7.00 pm

Council Chamber Town Hall

Agenda

Membership:

Cllrs: M Braley
A Clayton
J Cookson
J Pearce

(The designation of the substitute Member to be confirmed)

4. Application for Review of a Premises Licence - Costcutter Supermarket, Woodrow Centre

(Pages 1 - 8)

S Jorden, Head of Regulatory Services

To consider an application for review of the Premises Licence for Costcutter Supermarket, Woodrow Centre, Redditch.

(Report attached)

(Greenlands Ward)

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PREMISES LICENCE REVIEW – COSTCUTTERS

Relevant Portfolio Holder	Cllr Brunner
Relevant Head of Service	Guy Revans
Non-Key Decision	

1. SUMMARY OF PROPOSALS

To consider an application made by West Mercia Constabulary under the provisions of Section 51 of the Licensing Act 2003, to review Premises Licence granted to Mohammed Sajid Ali and Javid Iqbal in relation to Premises Licence 0043 for Costcutters, 31 Woodrow Centre, Woodrow North, Redditch, B98 7RY.

2. RECOMMENDATIONS

The Sub-Committee is asked to RESOLVE that

after hearing all the representations in relation to the Premises Licence, whether to revoke, suspend or make any changes deemed necessary to the terms of the Premises Licence or take no action in relation to the promotion of the licensing objectives.

3. BACKGROUND

- 3.1 The Premises has been licensed with the Council as a off licence and under the Licensing Act 2003 transferred from the justice Licence on 24/11/2005
- 3.2 The Licence permits the Sale of Alcohol with consumption off the premises with standard mandatory conditions; a copy of the premises licence is Included at Appendix 1.
- 3.3 The four licensing objectives are:

The prevention of Crime and disorder
Public Safety
The Prevention of Public Nuisance
The Protection of children from harm

4. KEY ISSUES

- 4.1 This application for a review of the premises licence for the premises 'Costcutters', Woodrow Centre, Redditch is being sought by West Mercia

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Police. The store has failed to promote two of the four licensing objectives from the Licensing Act 2003, the protection of children from harm and the prevention of crime and disorder. A copy of the application to review may be found at Appendix 2.

- 4.2 The store has sold alcohol to minors on three separate occasions in the last eight months. On two occasions, the store sold alcohol to minors as part of a Trading Standards test purchase operation. The other sale was witnessed by Police. A copy of Section 146 Licensing Act 2003 Sale of Alcohol to Children can be found at Appendix 3.
- 4.3 Police also state that they have no confidence in the premise licence holders, one of whom is the designated premise supervisor (DPS).
- 4.4 Police Licensing Officer PC Neil Sharpe visited Costcutters on 27th March 2009 following information that under age sales were taking place. The DPS was not present, but staff were informed of the need to check persons age by way of ID and adopt the 'Challenge 21' policy.
- 4.5 On 23rd April 2009 Licensing Officer Steven Wood attended the store along with the Police and HM Customs. Mr Wood saw that the Premises Licence Summary was not on display and when asked to see the Premises Licence he was informed that it was not available which is an offence under section 57 The Licensing Act 2003. A copy of Mr Wood's statement can be found at Appendix 8.
- 4.6 A test purchase operation run by Worcestershire Trading Standards took place on 12th June 2009. A female under the age of eighteen years bought alcohol at the store. This was sold to her by the DPS. Trading Standards decided to prosecute the premise for this offence. The statement of Tracey Blanchard, Trading Standards Officer, can be found at Appendix 7.
- 4.7 On 13th June 2009 PC 57 Nigel Bennett, who is the Local Police Officer for the Woodrow area, was on patrol in the shopping centre. He witnessed a youth leaving the store carrying beer. PC Bennett challenged this youth, who was fifteen years old, and then took the youth back inside the store and identified the staff member who had made the sale. The member of staff admitted the sale and offence. P C Nigel Bennett's statement can be found at Appendix 5.
- 4.8 On 22nd June 2009 the two premises licence holders attended a meeting at Redditch Police Station with the District Inspector for Redditch, Inspector 273 Ian Joseph and PC Neil Sharpe. They were warned about the two underage sales and that any further offences could lead to review. They

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were also written to on this date by PC Neil Sharpe confirming that further offences could lead to a review of the Premises Licence. A copy of this letter can be found at Appendix 6.

- 4.9 On 10th February 2010, a court case took place in regards to the underage sale made by the DPS on 12th June 2009. The premises licence holders received a fine of £350 plus costs.
- 4.10 On 12th February 2010 Worcestershire Trading Standards undertook a further test purchase operation at the premises and the DPS made a further sale to a minor.
- 4.11 The Police are asking the Licensing Committee to revoke the premise licence for this store, therefore stopping it from selling alcohol.
- 4.12 Supporting evidence has been provided by Trading Standards, Licensing Enforcement and Safeguarding and Quality Assurance (Safeguarding Children Authority). Licensing Officer Steven Wood's statement can be found at Appendix 8.
- 4.13 An email has been received from Adrienne Plunkett of the Safeguarding Children Authority fully supporting the Police in the review application, a copy of which can be found at appendix 9.

5. FINANCIAL IMPLICATIONS

There are no financial implications.

6. LEGAL IMPLICATIONS

- 6.1 Section 52 (3) and (4) of the Licensing Act 2003 provides:

The Authority must have regard to the application and any relevant representations and take such of the steps mentioned in subsection (4) as it considers necessary for the promotion of the licensing objectives.

- a) to modify the conditions of the premises licence (which includes adding new conditions or any alteration or omission of an existing condition), for example, by reducing the hours of opening or by requiring door supervisors at particular times;
- b) to exclude a licensable activity from the scope of the licence

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- c) to remove the designated premises supervisor
 - d) to suspend the licence for a period not exceeding three months
 - e) to revoke the licence
 - f) take no action at All
- 6.2 In deciding which of these powers to invoke, it is expected that licensing authorities should so far as possible seek to establish the cause or causes of the concerns which the representations identify. The remedial action taken should generally be directed at these causes and should always be no more than a necessary and proportionate response.
- 6.3 For example, licensing authorities should be alive to the possibility that the removal and replacement of the designated premises supervisor may be sufficient to remedy a problem where the cause of the identified problem directly relates to poor management decisions made by that individual.
- 6.4 Equally, it may emerge that poor management is a direct reflection of poor company practice or policy and the mere removal of the designated premises supervisor may be an inadequate response to the problems presented. Indeed, where subsequent review hearings are generated by representations, it should be rare merely to remove a succession of designated premises supervisors as this would be a clear indication of deeper problems which impact upon the licensing objectives.
- Guidance under Section 182 of the Licensing Act 2003**
- 6.5 The 2003 Act provides a range of powers for the licensing authority on determining a review that it may exercise where it considers them necessary for the promotion of the licensing objectives.
- 6.6 The licensing authority may decide that no action is necessary if it finds that the review does not require it to take any steps necessary to promote the licensing objectives. In addition, there is nothing to prevent a licensing authority issuing an informal warning to the licence holder and/or to recommend improvement within a particular period of time. It is expected that licensing authorities will regard such warnings as an important mechanism for ensuring that the licensing objectives are effectively promoted and that warnings should be issued in writing to the holder of the licence. However, where responsible authorities like the Police or Environmental Health Officers have already issued warnings requiring

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improvement – either orally or in writing – that have failed as part of their own stepped approach to concerns, licensing authorities should not merely repeat that approach.

7. POLICY IMPLICATIONS

The Committee must have regard to it's own Statement of Licensing Policy when reaching a decision.

8. COUNCIL OBJECTIVES

This proposal contributes to the Council's objective "Safe"

9. RISK MANAGEMENT INCLUDING HEALTH & SAFETY CONSIDERATIONS

See paragraph 3.3 above regarding the four licensing objectives, which seek to reduce the likely risks in the areas stated.

10. CUSTOMER IMPLICATIONS

The outcome of the Committee's decision may have an impact on the livelihood and income of the Premises Licence holders.

11. EQUALITIES AND DIVERSITY IMPLICATIONS

None.

12. VALUE FOR MONEY IMPLICATIONS, PROCUREMENT AND ASSET MANAGEMENT

None.

13. CLIMATE CHANGE, CARBON IMPLICATIONS AND BIODIVERSITY

None.

14. HUMAN RESOURCES IMPLICATIONS

None.

15. GOVERNANCE/PERFORMANCE MANAGEMENT IMPLICATIONS

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None.

**16. COMMUNITY SAFETY IMPLICATIONS INCLUDING SECTION 17 OF
CRIME AND DISORDER ACT 1998**

As stated in the report, above.

17. HEALTH INEQUALITIES IMPLICATIONS

None.

18. LESSONS LEARNT

None.

19. COMMUNITY AND STAKEHOLDER ENGAGEMENT

None.

20. OTHERS CONSULTED ON THE REPORT

Portfolio Holder	Yes
Chief Executive	Yes
Executive Director (S151 Officer)	No
Executive Director – Leisure, Cultural, Environmental and Community Services	No
Executive Director – Planning & Regeneration, Regulatory and Housing Services	Yes
Director of Policy, Performance and Partnerships	No
Head of Service	Yes
Head of Resources	No

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Head of Legal, Equalities & Democratic Services	Yes
Corporate Procurement Team	No

21. WARDS AFFECTED

The contents of this report affect Greenlands Ward

22. APPENDICES

- Appendix 1 - Copy of Premises Licence
- Appendix 2 - Application for Review
- Appendix 3 - Section 146 Licensing Act 2003 Sale of Alcohol to Children
- Appendix 4 - Statement Neil Sharpe (Police)
- Appendix 5 - Statement Nigel Bennett (Police)
- Appendix 6 - Letter from Police to Javid Iqbal 22nd June 2009
- Appendix 7 - Statement of Tracey Blanchard (Trading Standards)
- Appendix 8 - Statement of Steven Wood (Licensing Enforcement)
- Appendix 9 - Copy of Email from Adrienne Plunkett (Safeguarding Children Authority)

23. BACKGROUND PAPERS

Licensing Act 2003
Licensing Act 2003 Section 182 Guidance Notes
Statement of Licensing Policy

24. WITNESS LIST

1. Neil Sharpe Licensing Officer West Mercia Police
2. Tracey Blanchard Trading Standards Officer Worcester City Council
3. Steven Wood Licensing Officer Redditch Borough Council

AUTHOR OF REPORT

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