

# **Licensing**

## **Sub-Committee**

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8th June 2010

## **MINUTES**

### **Sub-Committee Members Present:**

Councillors Michael Braley (Chair), Anita Clayton, Jinny Pearce and reserve member Councillor Jack Cookson

### **Officers:**

C Flanagan (Legal Services Manager)  
S Garratt (Licensing Manager)  
T Phelan (Licensing Technical Officer)  
A Teepe (Senior Solicitor)  
I Westmore (Member & Committee Support Services Manager)

### **Applicant's Side:**

PC Neil Sharpe, West Mercia Police  
PC Nigel Bennett, West Mercia Police  
Ms T Blanchard, Fair Trading Officer, Worcestershire County Council  
Mr S Wood, Licensing Officer, Redditch Borough Council

### **Premises Licence Holders' Side:**

Mr J Iqbal, Premises Licence Holder and Designated Premises Supervisor  
Mr M S Ali, Joint Premises Licence Holder  
Ms J Sherratt, Legal Representative

### **1. CHAIR'S WELCOME**

The Chair welcomed all present and explained the procedure to be followed at the meeting.

### **2. APOLOGIES**

There were no apologies for absence.

### **3. DECLARATIONS OF INTEREST**

There were no declarations of interest.

### **4. APPLICATION FOR REVIEW OF A PREMISES LICENCE - COSTCUTTER SUPERMARKET, WOODROW CENTRE**

The Sub-Committee considered an application to review the premises licence for Costcutter Supermarket, Unit 31, Woodrow Centre, Redditch B98 7RY following receipt of a request for an application from PC Neil Sharpe, West Mercia Police.

PC Sharpe, the Applicant attended, together with the following witnesses: PC Nigel Bennett, West Mercia Police; Tracey Blanchard, Fair Trading Officer, Worcestershire County Council and Steven Wood, Licensing Enforcement Officer, Redditch Borough Council. The Joint Premises Licence Holders for the premises concerned, Mr Mohammed Sajid Ali and Mr Javid Iqbal, who was also the Designated Premises Supervisor, were in attendance and were represented by Ms Jill Sherratt, their legal representative.

At the outset of the hearing the parties to the application confirmed that they were content for the hearing to take place despite the Licensing Authority failing to serve the notice of the hearing within the timescales set out in the Licensing Act 2003 (Hearings) (Amendment) Regulations 2005. The parties to the application also confirmed that they agreed to the acceptance of the covering report pertaining to the Application which had been circulated subsequent to the notice to rectify an omission in the initial distribution.

Introducing the report, the Licensing Officer advised that the application for a review of the Premises Licence had been received from West Mercia Police on the grounds that the store had 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. As a consequence of the occurrences detailed within the report, the Police were reported to have no confidence in the Premises Licence Holders.

It was reported that alcohol had been sold to minors on three separate occasions at the premises in the previous eight months, two of these sales taking place during Trading Standards test purchase operations. Following the first two underage sales, the Premises Licence Holders attended a meeting at Redditch Police Station with the District Inspector for Redditch, Inspector Ian Joseph and PC Sharpe at which they were informed that further offences of underage sales could result in an application to review their Premises Licence. The evidence produced by West Mercia Police in support of their application was appended to the report and comprised statements from PC Sharpe, PC Bennett, Ms Blanchard, Mr Wood and Ms Adrienne Plunkett of the Safeguarding Children Authority who expressed her support for the review application via an e-mail which was also attached.

Following the presentation by the Licensing Officer, PC Sharpe addressed the hearing and reiterated the concerns of the West Mercia Police and the reasons for them suggesting the course of

action that they were recommending, namely that of revoking the Premises Licence. PC Sharpe introduced the witnesses, PC Bennett, Ms Blanchard and Mr Wood who presented their evidence to the Sub-Committee.

Ms Sherratt, legal representative, presented the case on behalf of the Premises Licence Holders. It was stated that the Licence Holders did not intend to make excuses for their previous actions and that the review was clearly and without question a justifiable course of action. It was also stated that the Designated Premises Supervisor was aware of the gravity of the situation. Ms Sherratt proposed to provide the Sub-Committee with information on behalf of the Licence Holders.

The mistakes were predominantly put down to a lack of focus and knowledge on behalf of the current Designated Premises Supervisor (DPS). A number of the major implications of the Licensing Act 2003 had largely passed the DPS by, the licence having being granted with grandfather rights at the period of changeover from the old system to the new. The location of the store in a difficult area of the town was also noted. However, it was contended that the course of action that was being advocated by West Mercia Police was serious, disproportionate and would take away the Premises Licence Holders' livelihoods.

It was also contended that the Police were incorrect in asserting that prospects for improvement under the current ownership were not good. Ms Sherratt reported that the management had made very serious efforts in the light of the forthcoming review to address the training of staff and that her organisation had been working with the store for the previous two months.

Ms Sherratt reminded the Sub-Committee of the expectation within the guidance that any measures taken would be proportionate, and that a suspension of a licence was intended to allow for remedial action rather than to be used as a punishment. Given that measures were already being put in place it was suggested that this would be inappropriate in this case. It was suggested that revocation should be a last resort and the Sub-Committee was informed of recent case law that might have a bearing in this instance.

In order to demonstrate the serious intent of the Premises Licence Holders a number of conditions were volunteered on their behalf and it was proposed that the present DPS be replaced and Mr Ali apply to take over the role.

Following a number of questions to the Premises Licence Holders, all parties concerned then took the opportunity to sum up their cases.

(At this point in the hearing, the Sub-Committee went into closed session in order to consider its decision. For this purpose it was:

**RESOLVED that**

**under S.100 I of the Local Government Act 1972, as amended by the Local Government (Access to Information) (Variation) Order 2006, the public be excluded from the meeting on the grounds that consideration would involve disclosure of exempt information as defined in paragraph 4 of Part 1 of Schedule 12 (A) of the said Act, as amended.)**

At the conclusion of the closed session, the Sub-Committee announced its decision, namely that it had been:

**RESOLVED that**

Having regard to:

- the Licensing Objectives;
- Guidance issued under section 182 of the Licensing Act 2003;
- the Borough Council's Statement of Licensing Policy;
- the Application for Review of the Premises Licence;
- the representations made by interested parties (both in writing prior to and in person at the hearing)

**The Sub-Committee RESOLVED that**

**in relation to the Premises Licence at Costcutter, Woodrow Centre, Redditch:**

**the Designated Premises Supervisor be removed. The reason for this decision is to address the objective of the protection of children from harm and the prevention of crime and disorder in the light of the failures at the premises and the Sub-Committee considers this to be a necessary and proportionate decision.**

**The Sub-Committee accepts that since the instigation of the review the Premises Licence Holders have taken steps to address the poor management at the premises and failures under the Licensing Act and accepts the Conditions which have been proposed by the Premises Licence Holders (as set out below) to be added to the Premises Licence as a means of ensuring that the licensing objectives are met.**

- 1. The 'Challenge 25' scheme to be adopted in the store at all times;**

2. Signage to be displayed at the premises informing customers that a 'Challenge 25' scheme is in operation;
3. All staff responsible for making sales of alcohol to hold a Personal Licence;
4. Refresher staff training to take place at three monthly intervals. It will be documented and made available to the authorities on request;
5. A Refusals Register to be maintained at the premises and completed on each occasion a refusal of alcohol is made. The register will be checked and signed by the DPS or Premises Licence Holder on a regular basis and it will be made available to the authorities on request; and
6. A CCTV system to operate at the premises. The system will be of a standard that is acceptable to West Mercia Constabulary.

**This decision can be appealed to the Magistrates Court and will take effect from the expiry of the appeal period.**

**This decision will be confirmed in writing to the parties within 5 days.**

## Summary of Legal Advice

The Sub-Committee has received the following legal advice:

- A. The Sub-Committee should have regard to the four licensing objectives contained within the Licensing Act 2003, its Statement of Licensing Policy and the Guidance issued under Section 182 of the Licensing Act 2003.

In particular, the powers of a Licensing Authority on the determination of a Review.

The Meeting commenced at 7.00 pm  
and closed at 9.14 pm