

REDDITCH BOROUGH COUNCIL

LICENSING SUB-COMMITTEE

8th June 2010

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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