

Licensing Sub-Committee – Meeting held on Friday, 8th March, 2013.

Present:- Councillors Sohal (Chair), Malik and Plimmer

Officers Present:- Kuldip Channa, Principal Solicitor, Teresa Clark, Senior Democratic Services Officer, Dean Cooke, Senior Trading Standards Officer, Richard Garnett, Environmental Health Officer, Mick Sims, Licensing Manager

PART 1

36. Declarations of Interest

Councillor Sohal declared that he had visited the premises recently to familiarise himself with the layout of the shop. He had not spoken to anyone during the visit.

37. Guidance on Predetermination/ Predisposition

Members confirmed that they had read and understood the guidance note on Predetermination and Predisposition.

38. Minutes of the Last Meeting held on 15th January 2013

Resolved – That the minutes of the meeting held on 15th January 2013, be approved as a correct record subject to an amendment under minute number 33 to the title of Mrs Channa, to read 'Principal Solicitor', Slough BC.

39. Review of premises Licence: S D Wines, 131 Bath Road, Slough

Following introductions the procedure for the hearing was outlined. The Chair confirmed that all parties had received a copy of the relevant paperwork.

At the commencement of the hearing, Mr Bahal, representing Mr Surinder Pal Singh Rajasansi, questioned whether the Sub-Committee had received a petition submitted to the Licensing Office on 18th February and a local newspaper article. Mr Sims, Licensing Manager advised that he had not received the documents in question. In response to a question by Mrs Channa, Mr Kulvinder Rajasansi confirmed that the documents had not been forwarded to Democratic Services.

Mr Bahal contended that the petition and the newspaper article carried some weight and it was important that the Sub-Committee have sight of these documents. He also stated that he could not see any audio equipment available to play the taped interviews and it had been agreed that these would be made available when the case was previously adjourned. Mr Bahal also requested that CCTV footage of the incident in question be made available during the hearing. Mrs Channa confirmed that the decision of the previous Sub-Committee was that the hearing be adjourned so that the scripts of the

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interview content be made available and these had been included within the agenda papers.

Ms Pearmain, representing Thames Valley Police (TVP), objected to the submission of additional evidence on the grounds that there was sufficient time prior to the hearing for this to be circulated.

The Sub-Committee adjourned at 10.35 am to decide whether the documents referred to by Mr Bahal should be tabled for consideration.

The Sub-Committee re-convened at 10.47 am. The Chair advised that objections had been noted but the Sub-Committee had decided that in order to ensure a fair hearing, the petition and the newspaper article would be tabled and considered. Mr Bahal was reminded however that the purpose of the hearing was to review the premises licence because there had been a failed test purchase exercise. The Sub-Committee decided that the CCTV could not be played at the hearing as this formed part of the legal prosecution case.

The meeting adjourned at 10.55 am so that the relevant documents could be copied and tabled for all parties present. The contents of the documents were noted and the hearing reconvened at 11.10 am.

Introduction by the Council's Licensing Officer

Mr Sims referred the Sub-Committee to the report set out in the agenda papers. Options available to the Sub-Committee were outlined for Members consideration.

It was confirmed that the Licence Holder was Mr Surinder Pal Singh Rajasansi, and that the Designated Premises Supervisor (DPS) was his son, Mr Kulvinder Vir Rajasansi. The review had been requested under the grounds of the Prevention of Crime and Disorder, Public Safety, and the Protection of Children from Harm. The Sub-Committee was advised that the review was brought due to the sale of 1 pack of 10 "Benson and Hedges Gold" cigarettes i.e. an aged restricted product to an underage person, on 29th June 2012, that the premises was the subject of a previous Review Application in 2006 made by Thames Valley Police. On that occasion, the License conditions had been breached as alcohol was sold to an underage person and the CCTV system not working properly. At the previous review hearing the Sub-Committee had decided to remove Mr Surinder Rajasansi as the Designated Premises Supervisor and suspend the premises licence for the sale of alcohol for one month. It was highlighted that the premises had been tested on 11 occasions for age restricted products and two sales had been made.

Mr Sims discussed the responses received from the Responsible Authorities, and the Premises Licence holder. He also referred the Sub-Committee to the relevant guidance published under S182 of the Licensing Act 2003 which detailed the matters that Members should have regard to and the steps it

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could take when reviewing a premises licence. It was also recommended that the Sub-Committee make use of the 'yellow card system'.

Questions to Licensing Officer

None at this point.

Representations made by Trading Standards

Mr Cooke, Senior Trading Standards Officer, explained why a review of the premises licence had been sought. On 29th June 2012 a Trading Standards test purchasing exercise was carried out by Slough Trading Standards and TVP. Officers visited SD Wines, 131, Bath Road, Slough and an underage volunteer was sent in to the store and was able to purchase a pack of 10 Benson and Hedges cigarettes. At no time was the purchaser asked for proof of their age. The same volunteer had been sent in to other premises earlier in the evening and had been refused sales. Mr Cooke confirmed that person who served the volunteer was Mr Surinder Rajasansi, the Premises Licence Holder. It was highlighted that a further volunteer was later sent in to the store and was refused a sale of alcohol. The Sub-Committee noted that in the last 10 years, the premises had been tested 11 times and that one sale had been made for alcohol and one for cigarettes (the case under discussion).

Mr Cooke was concerned that currently a limited number of staff operated the tills and the shop operated a late licence until 2 am. He did not accept the claim made that the under age sale was due to an error of judgement and reminded the Sub-Committee that it was a criminal offence, in the same way that drink driving was an offence. The review had been brought on the grounds of the protection of children from harm. Trading Standards Services recommended that the following conditions be placed on the licence: the sale of any restricted product should not take place any later than 11.00pm, that an 'Over 21's only' policy for all age restricted products be introduced, and that Mr Surinder Rajasansi be prohibited from selling all or any age restricted products. Mr Cooke commented that Mr Surinder Rajasansi was not sufficiently vigilant and it was he who had been personally responsible for the failed test purchase in 2006.

Questions to Trading Standards Officer

Mr Bahal asked for clarification on what could initiate a review and the suggestion of not restricting the hours but the sale of any restricted products. Mr Cooke referred to 'Lacors' Guidance and advised that the restriction of age restricted products was being sought, not a restriction on opening hours.

Representations made by TVP

Ms Pearmain advised that she supported the recommendations and confirmed that TVP had also requested that consideration be given to the addition of a number of further conditions to be imposed on the Premises Licence, namely:

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- All staff involved in the sale of alcohol to be Personal Licence Holders.
- CCTV images to be kept for 31 days and made available upon the request of Thames Valley Police employees and Local Authority Licensing and Trading Standards Officers.
- DPS or nominated person to be trained on how to work the CCTV system to the standard where the nominated person is able to download any potential evidence required by Thames Valley Police employees.
- To participate in any UV marking scheme if requested by Thames Valley Police or Trading Standards.
- Refusals Register to be on the premises and kept up to date and made available upon the request of Police, Trading Standards Officers and Local Authority Licensing Officers.
- The DPS and management shall ensure that an EPOS/Till prompt system is installed and operated at all times.

Representations made by PC Bradfield, Thames Valley Police

PC Bradfield discussed antisocial behaviour incidents at properties opposite the SD Wines premises and street drinking. He advised that some individuals who had been drinking on the street had entered SD Wines and were refused the sale of alcohol at 11.30 pm. (Mr Rajasansi later disputed this and stated that it was not possible to walk into the shop at that time of night).

Representations made by Richard Garnett, Environmental Health Officer

Mr Garnett referred to a survey of antisocial behaviour that had been undertaken in Ladyday Place and Glentworth Place where it was found that people being drunk or rowdy in public places was a significant problem for residents. He referred to incidents of rough sleeping and drunkenness in public and suggested that a can marking scheme could be useful to track whether the public nuisance problems were linked to alcohol sales from SD Wines. Mr Garnett supported the restriction of the sale of age restricted products at the premises to 11.00 pm.

Questions by the Sub-Committee

In response to a Member question regarding whether there had been any cases of proxy sales, Ms Pearmain advised that there had been none.

A member questioned how many food outlets there were in the vicinity of the premises and was advised that there were 5 in Tuns Parade. He asked whether rubbish left in the vicinity could be from these outlets and was advised by Mr Garnett that a lot of the rubbish was alcohol cans and the other premises did not sell alcohol (apart from the Three Tuns Public House).

Mrs Channa asked how many of the incidents referred to by Environmental Health were linked to SD Wines and was advised that it was thought that individuals were obtaining some or all of their alcohol from the premises. It was then conceded that there was no evidence that the cans were from SD Wines.

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Response by Mr Kulvinder Rajasansi to Mr Garnett's submission

Mr Rajasansi contended that the reason the Environmental Health Team had visited the locality was because he had personally requested the visit following concerns regarding the amount of rubbish near to his premises. He felt that other premises were not 'pulling their weight' and therefore the problem had become worse. He advised that SD Wines did not sell any strong ciders after 11 pm and also highlighted that there were two other off-licence premises on Farnham Road, three minutes walk away from SD Wines.

Questions to Mr Cooke from Mr Bahal

Mr Bahal asked Mr Cooke to confirm that his statement in the report that Mr Surinder Pal Singh Rajasansi was the Designated Premises Supervisor was incorrect. Mr Cooke confirmed that this was the case and that he was the Premises Licence Holder. Mr Bahal asked whether it had been intended that there would be two test purchases on the night in question and Mr Cooke advised that the second test for alcohol was conducted on the spur of the moment and other stores were tested in the same way. He confirmed that the second volunteer entered the premises after the first volunteer and not at the same time.

Mr Bahal asked whether the LACORS guidance was set in legislation and Mr Cooke confirmed that it was guidance, the purpose of which was to provide a consistent approach in Licensing matters. In response to a question as to whether tobacco was covered by the Licensing Act, Mr Cooke advised that it was not and this was a frequently held a mis-conception. Mr Bahal questioned whether the Sub-Committee had the authority under the Act to restrict the sale of items and was advised by Mrs Channa that the Sub-Committee could modify a licence to meet the Licensing objectives and could also add conditions to a licence.

Mr Bahal asked Mr Garnett whether the survey was conducted prior to the review and was advised that it was carried out in October 2012 and was not linked to the review. He confirmed that when he had visited SD Wines he was not aware of the test purchase.

In response for clarification by Mrs Channa, Mr Cooke advised that a Trader pack was given to all premises. This covered a number of issues including the requirements of legislation, penalties, a suggested template for a refusals register and age related displays. It was confirmed that Mr Rajasansi had signed up to an age Policy scheme.

Representations made by the Premises Licence Holder

In addition to the representations made by the Premises License Holder, set out in the report, Mr Bahal advised that his client had been in business for 30 years and SD Wines had existed for 18 years. He acknowledged that Mr Surinder Rajasansi had failed a test purchase in 2006 but this was the only one failed of eleven. Mr Bahal stated that Mr Rajasansi had made the sale in error and this was due to mistaken identity- he thought the purchaser was the son of a friend who is 19 years of age. It was highlighted that the shop

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provided sustenance for 10 people and the conditions suggested by the Licensing Officer were disproportionate.

Mr Kulvinder Rajasansi advised the Sub-Committee that family tried to run the business honestly. CCTV had been installed, cameras had been placed outside the shop and strides had been made in dealing with inappropriate customers. There were many corporate offices next to the shop. His father had given evidence when he had witnessed an assault on a police officer. He felt that the License Holder was being victimised and never sold alcohol to drunks hanging round the locality. It was argued that the volunteer who had been sold cigarettes looked over 21 years of age but this could not be proved as the production of photographs had not been allowed.

Mr Bahal argued that the whole process could have been resolved in a more amicable way.

Summing Up

Having discussed the detail of conditions and whether the Premises License Holder was in agreement to these, all parties provided a brief summary. The Licensing Officer reminded Members that their decision should be made having regard to public interest and in consideration of recommendations put forward by those who were party to the review procedure. The Trading Standards Officer reminded the Sub-Committee that a criminal offence had been committed and the need to bring the review was a requirement of legislation. He confirmed his recommendations which included that Mr Surinder Rajasansi should be prohibited from selling age related products.

Ms Pearmain emphasised that the Designated Premises Holder and the Licence Premises Holder were required to ensure that Licensing objectives were met.

Mr Bahal did not feel that the right approach had been taken and on occasion everyone made a mistake. He requested that the Sub-Committee did not 'debar' Mr Surinder Rajasansi as he had dependents. Further, if he was not allowed to sell age restricted products he would not be allowed to sell aspirin for example. He concluded that the person who had been sold the cigarettes looked over the age of 21 but he had not been allowed to show photos of this person in to the Sub-Committee in evidence.

Mrs Clark, Senior Democratic Services Officer, advised the Sub-Committee that the petition tabled at the meeting did not show the address of the petitioners as required by the Council's Constitution and only the postcode and the name of the individual. This was noted by the Sub-Committee. Mrs Channa reminded the Sub-Committee that it was required to consider all four of the Licensing Objectives when reaching its decision.

Following the summing up, the parties left the meeting at 1.45 pm in order for the Sub-Committee to deliberate.

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Decision

The Sub-Committee re-convened at 2.10 pm and all parties were asked to re-join the meeting.

Having carefully considered all the information available, the Sub-Committee decided to impose the following on the Premises Licence:

- A. the premises be issued with a yellow card warning for a period of 12 months commencing from 8th March 2013.

It was held that in relation to the issue of a yellow card, that this was a strict warning and any further review may mean that revocation of the Premises Licence was the only reasonable and proportionate option available to the Licensing Authority.

- B. the following Conditions be included on the Premises Licence commencing 8th March 2013:-

1. That an Over 21s policy for all age restricted products be implemented.
2. That CCTV images be kept for 31 days and made available on the request of Thames Valley Police and/or Local Authority Licensing and Trading Standards Officers.
3. That a refusal register be maintained on the premises, kept up to date and made available upon the request of Police, Trading Standards Officers and Local Authority Licensing Officers.

In addition, the Sub-Committee made the following recommendations:

1. That the premises consider volunteering for the UV marking system in order to support the actions of the Police, Local Authority and other Agencies to any combat public nuisance issues within the vicinity of the Licensed Premises.
2. That the Designated Premises Supervisor (DPS) explore the installation of an EPOS/ Till prompt system and that they report back to the Licensing Officer by 10 June 2013 with options for implementation, and that within one of year this date the agreed system be implemented in order to meet the Licensing Objective for the protection of children.

The Sub-Committee issued a strict warning to the Licensed Premises Holder that all reasonable measures must be taken in order to prevent any further underage sales at the Licensed Premises.

The Sub Committee considered the Conditions imposed to be necessary, reasonable and proportionate in order to meet the Licensing Objectives.

Chair

(Note: The Meeting opened at 10.00 am and closed at 2.15 pm)