

CANNOCK CHASE COUNCIL

MINUTES OF THE MEETING OF THE

LICENSING SUB-COMMITTEE

HELD ON MONDAY 07 JANUARY 2014 AT 2:00P.M.

IN THE CIVIC CENTRE, BEECROFT ROAD, CANNOCK

PART 1

PRESENT: Councillors

Allen, F.W.C.

Fisher, P.A.

Stretton, Mrs. Z.P.

Licence Holder: C. Deacon – Regional Manager, Marston's Plc.
M. Atkins – Area Manager, Marston's Plc.

Licence Holder's Legal Representative: Ms. M. Hazelwood, John Gaunt &
Partners Solicitors.

Designated Premises Supervisor: S. Banks, The Chase.

Responsible Authorities (Applicant for Review):

PC D. Evans – Staffordshire Police.

PC J. R. Mellor – Licensing Officer, Staffordshire Police.

Licensing Authority Representative: D. Prosser-Davies, Food Safety Manager,
Cannock Chase Council.

Legal Advisor to the Committee: S. Turner, Principal Solicitor,
Cannock Chase Council.

Secretary to the Committee: M. Berry, Senior Committee Officer,
Cannock Chase Council.

Also in Attendance: S. O'Meara, Senior Licensing Officer,
Cannock Chase Council.

1. Appointment of Chairman

Councillors P.A. Fisher and Mrs. Z.P. Stretton nominated Councillor F.W.C. Allen as Chairman of the Sub-Committee.

RESOLVED:

That Councillor F.W.C. Allen be appointed Chairman of the Licensing Sub-Committee

2. Apologies and Reconstitution of Membership

No apologies were received.

3. Declarations of Interests of Members in Contracts and Other Matters and Restriction on Voting by Members

No declarations of interests were received.

4. Licensing Act, 2003 – Application for a Review of a Premises Licence – The Chase, Hagley Road, Rugeley, WS15 2AW

Consideration was given to the Report of the Head of Environmental Health (Enclosure 4.1 – 4.41 of the Official Minutes of the Council).

The Chairman advised that a number of additional documents had been circulated in advanced on the meeting, so asked all parties to confirm they had received the documents. The Chairman also advised that if necessary, the meeting would move into exempt session to consider confidential information contained in the documentation.

The Chairman then asked all parties to introduce themselves and to confirm their understanding of the procedure.

The Officer of the Licensing Authority presented the report in respect of this matter. He outlined the relevant issues for consideration.

The Licence Holder's Legal Representative, the Applicant and Members of the Sub-Committee were afforded the opportunity of asking questions of the Officer of the Licensing Authority. No questions were asked.

The Applicant for Review then presented their case.

The Licence Holder's Legal Representative and Members of the Sub-Committee then asked questions of the Applicant.

The Licence Holder's Legal Representative presented the case on behalf of the Licence Holder, inviting relevant witnesses to also speak as necessary.

The Applicant and Members of the Sub-Committee then asked questions of the Licence Holder's Legal Representative and witnesses.

The Officer of the Licensing Authority, the Applicant and the Licence Holder's Legal Representative then summed up their respective cases.

Members of the Sub-Committee then deliberated in private, accompanied by the Council's Legal Advisor and Secretary to the Sub-Committee.

Upon the meeting reconvening, the Chairman announced that the Sub-Committee were not in a position to make a decision at present, but a decision would be made and communicated to all parties in writing within seven working days.

The meeting closed at 4:37pm

Following the meeting being held, the Members of the Sub-Committee agreed the decision as follows:

RESOLVED:

After hearing the evidence submitted by Staffordshire Police and the Premises Licence Holder (“the Parties”), and having considered the matters set out in the report attached to the agenda and additional documents referred to at the hearing by the Parties, and having considered the statutory guidance issued as per section 182 of the Licensing Act 2003 and the Council’s Licensing Policy, the Committee resolved;

That the additional conditions set out below be added to the Premises Licence:

- (i) Staff will be trained regarding appropriate precautions to prevent the sale of alcohol to persons under the age of 18 and all staff will receive refresher training every 3 months, such training to be provided by the Designated Premises Supervisor or an appropriately accredited training provider. Records are to be kept of initial training and refresher training which should be signed and dated by the member of staff who received their training. Training records will be kept for a minimum period of 2 years and be made available upon request by Staffordshire Constabulary or any Responsible Authority.
- (ii) A written or electronic incident book shall be kept at the premises and be signed weekly by the Designated Premises Supervisor.
- (iii) A written or electronic refusals register shall be kept at the premises recording all refusals including refusals to sell alcohol. This should be checked and signed weekly by the Designated Premises Supervisor.
- (iv) Each Till should display electronic prompt on sales of alcoholic products as to date of birth before which an individual must be born to be aged 18 or over.
- (v) There will be a Challenge 25 policy operating at the premises. Challenge 25 means that the holder of the Premises Licence shall ensure that every individual, who visually appears to be under 25 years of age and is seeking to purchase or be supplied with alcohol at the premises or from the premises shall produce identification proving that individual to be 18 years or older.
- (vi) Acceptable identification being passport or photo card driving licence bearing a holographic mark or other form of identification bearing the customers photograph, date of birth and bearing the “PASS” logo and / or hologram.
- (vii) Challenge 25 posters to be displayed in prominent positions at the premises.

(viii) CCTV.

- (a) All CCTV images will be retained for a minimum of 31 days.
- (b) The date and time on the CCTV to be set to the correct time relating to BST/GMT.
- (c) The CCTV will be positioned in a secure area of the licensed premises and not within a private area of the location. Access to the area will be available immediately to a responsible authority upon request.
- (d) A CCTV register should be kept and signed daily by the designated premises supervisor.

Reasons for the Decision

The Committee noted that on Sunday 25th August 2013 there was an illegal sale of alcohol to a person aged under 18 years at the Premises;

The Committee noted that the Parties had agreed a list of conditions to be added to the premises licence and that the only matter in issue between the Parties was whether the conditions should refer to Challenge 21 or Challenge 25;

The Committee noted that the agreed conditions included provisions relating to three monthly refresher training of staff regarding appropriate precautions to prevent the sale of alcohol to persons under 18, as well as the keeping of an incident book, refusals register, the use of an electronic prompt for date of birth checking and conditions regarding CCTV;

The Committee noted that the training resources referred to by the Premises Licence Holder as part of its evidence included reference to Challenge 25 age verification;

The Committee found that the evidence given by Mr Banks, the new Designated Premises Supervisor, was muddled as to the use of Challenge 25 at the premises;

The Committee noted that Mr Banks suggested that there had been a partial adoption of a Challenge 25 policy by staff at the premises since he had taken over as Designated Premises Supervisor, apparently as a precautionary approach following the failed test purchase;

The Committee considered that the evidence from the Police demonstrated that there is a lower failure rate for test purchases at Challenge 25 premises, than the failure rate for premises adopting Challenge 21;

The Committee considered that the provisions of the statutory guidance, at paragraph 11.27, should be followed closely in this matter, and they further considered that paragraph 11.28 meant they should use the review procedure effectively to deter any further purchase of alcohol by minors;

In reaching its decision, in line with paragraph 9.40 of the statutory guidance, the Committee considered the potential benefit of imposing the attached conditions in terms of the licensing objectives and the potential burden on the Premises Licence Holder of imposing the these conditions;

The Committee considered paragraph 10.10 of the statutory guidance, and noted that there was no evidence given of “indirect costs” that would arise as a result of imposing a Challenge 25 age verification policy;

The Committee considered the case on its own merits and took into account the “characteristics of the premises”, while noting the need to take sufficient steps to deter further underage sales of alcohol to minors;

On balance the Committee considered it appropriate and proportionate to impose the additional conditions in Appendix 1 in order to promote the licensing objectives relating to the prevention of crime and disorder and the protection of children from harm;

The Committee considered that the Conditions in Appendix 1, particularly Challenge 25 conditions, should be enough to prevent further illegal sales of alcohol to minors;

The Committee considered that the lower failure rate for test purchases at Challenge 25 premises is a substantial benefit in terms of the licensing objectives relating to the prevention of children from harm and the prevention of crime and disorder;

The Committee considered that the benefits of imposing conditions that included the introduction of Challenge 25 were sufficient, in terms of the licensing objectives relating to the prevention of children from harm and the prevention of crime and disorder, to outweigh any burden on the Premises Licence Holder resulting from their introduction.

The meeting closed at 4:37pm

CHAIRMAN