



the relevant issues for consideration by Members.

Mrs. Sulway advised that the review of the Premises Licence had been requested by Staffordshire County Council Trading Standards Division ("Trading Standards") on the basis that the promotion of the licensing objective of protecting children from harm had been breached.

Members were asked to have due regard to the four licensing objectives, the Council's Licensing Policy and the Secretary of State's Guidance issued under Licensing Act 2003, Section 182 .

Members were asked to note that Trading Standards were recommending that the Premises Licence be either revoked or suspended for a period of 3 months.

The Applicant's representative, the Licensee and Members of the Sub-Committee were given the opportunity to seek clarification of the officer from the Licensing Authority. A Member asked how long the Licensee had held a licence to which Mrs. Sulway confirmed that the Licensee had held the licence since 31 March 2006 and no problems had come to the attention of the Licensing Unit during this period.

The Applicant's representative proceeded to present the application for review. Reference was made to the Secretary of State's Guidance, and a copy circulated to all parties and Members. The following statement from the Guidance was read out:

"There is a certain criminal activity that may arise in connection with licensed Premises which the Secretary of State considers should be treated particularly seriously. These are the use of the licensed Premises:

- for the purchase and consumption of alcohol by minors which impacts on the health, educational attainment, employment prospects and propensity for crime of young people".

The Applicant's representative explained that the sale of alcohol to minors was considered to be of a serious nature by the Secretary of State and the community was put at risk from crime.

He outlined the representations made by Trading Standards which were included within the report at Annex 1. In particular, reference was made to an incident that occurred on 14 May 2007 where Trading Standards Officers and representatives of Staffordshire Police observed a sixteen year old youth enter and then exit the Premises with a carrier bag containing alcohol. The purchaser was issued with a £50 fixed penalty notice and the alcohol was seized.

Video footage of the incident was played for the benefit of the Sub-Committee.

The Applicant's Representative further explained that on 25 May 2007 Trading Standards Officers and representatives of Staffordshire Police had stopped youths aged sixteen on three separate occasions leaving the Premises after purchasing alcohol. The purchasers were issued with £50 fixed penalty notices and the alcohol was seized. Additionally, on the same evening officers had witnessed a man purchasing alcohol from the Premises and handing it over to a group of under aged girls standing outside. The Police had closed the Premises down for 24 hours following these incidents.

Video footage of these incidents were played for the benefit of the Sub-Committee.

The Applicant's representative explained that Trading Standards Officers had visited the Licensee to offer him advice and training to assist him in not making sales to under aged young people. The Licensee had been supplied with a Refusal Log/Book in which he was required to record any incidents where the sale of alcohol had been refused to someone whom he suspected or were under age. In addition, further information had been supplied to the Licensee in respect of the Challenge 21 policy.

He then advised that Trading Standards had attempted a test purchase at the Premises but the sale was refused. It was explained that test purchases were conducted under a nationally agreed code of practice that requires a volunteer to tell the truth about their age when challenged.

He further outlined that on the evening of 25 May 2007 a person had been seen leaving the Premises drinking alcohol. Drinking of alcohol was not allowed in the Premises as it was an Off-Licence. When the Licensee had been questioned he had stated that he had opened the bottle to save the customer breaking his teeth. The Licensee had admitted that he was aware older people were buying alcohol for under aged young people and that when they had been challenged they had become offended. The Applicant's representative stated that the Licensee should be capable of challenging customers regarding their age.

He then explained that the Sub-Committee should have regard to the representations made and was permitted to take such steps as it considered necessary for the promotion of the licensing objectives. The five options available to the Sub-Committee were detailed on Enclosure 4.3 paragraph 4.1 of the report. He submitted that Trading Standards considered that the first three options were not suitable and that the other two options would be more appropriate, i.e. to suspend the licence for a period not exceeding 3 months, or to revoke the licence and for this purpose the conditions are modified if any of them are altered, omitted or a new condition added.

The Licensee was then given the opportunity to ask questions of clarification of the Applicant's Representative. With regards the video footage shown, he stated that the two young persons were familiar to him and he had previously checked the identification on a number of occasions. Their ID's had stated that they were eighteen or nineteen years old. He was not aware that the gentleman was purchasing alcohol for the young girls outside his Premises and had served him as he appeared "old enough". He stated that he was capable of challenging customers regarding their age and had refused to serve people who had attempted to buy alcohol and cigarettes for others in the past.

The Applicant's Representative commented in response that Staffordshire Police Officers had challenged the two young persons mentioned by the Licensee and they had been found to be sixteen years of age and fixed penalty notices had been issued to them. He questioned what type of ID had been shown to the Licensee and who it belonged to.

Members of the Sub-Committee did not have any questions of clarification that they wished to ask the Applicant's Representative. However, the Solicitor advising the Sub-Committee asked the Applicant's Representative to confirm whether the fixed penalty notices that had been issued to the youths had been challenged. The Applicant's Representative stated that he was not aware that they had been challenged and had copies with him. The fixed penalty notices had not been included within the report as the identifications of minors would have been disclosed.

The Licensee was then afforded the opportunity to present his case. He stated that parents

would complain to him if he served their children alcohol and they were under age. He commented that he risked losing his customers.

The Licensee stated that the Premises was currently up for sale and had been for some time. The decision to sell the Premises was not based in any way on the incidents detailed by the Applicant's Representative. The Licensee stated that he intended to move back to Leeds where his family resided. The Licensee stated that unfortunately he did not have a lot of family in the locality and did not therefore have a lot of support in running the business.

The Applicant's Representative was then afforded the opportunity of asking questions of clarification of the Licensee. He asked the Licensee to confirm whether he had attended a training course on the sale of alcohol. The Licensee stated that he had attended a course ran by Denby College approximately 5-6 months ago and had obtained a certificate. The course dealt with obtaining ID from youngsters trying to buy alcohol. He had attended the course prior to the incidents taking place. He asked the Licensee to confirm whether he had taken any further precautions so as not to sell to under age persons since the incidents had occurred. The Licensee stated that he asked for identification that contained a photograph such as a passport or driving licence when he had suspicions about a customer's age. The Licensee confirmed he operated the Challenge 21 Policy and that he was the person who sold the alcohol to the under age young people on 14 and 25 May 2007. He confirmed that the Refusals Log/Book had been completed quickly and that he required a new one.

The Applicant's Representative asked the Licensee to confirm whether he considered there was a problem with under age young people buying alcohol in the area. The Solicitor advising the Sub-Committee stated that the Licensee could not answer this question as he would not and nor could he be expected to have the necessary information necessary to determine whether the area had a problem with under aged young people buying alcohol.

The Applicant's Representative asked the Licensee to confirm how many people on average were refused alcohol on a Friday. The Licensee stated approximately 20-30 people were refused alcohol on a Friday.

The Applicant's Representative then asked the Licensee to confirm whether he had asked to see the identification of the young people on the 14 and 25 May. The Licensee stated that as he knew the young people he had previously seen their identification.

Members of the Sub-Committee then considered whether they wished to ask questions of clarification of the Licensee and decided not to ask any questions.

The Officer representing the Licensing Authority was given the opportunity to summarise the applications and issues. She stated that the Sub-Committee had heard the reasons for the review of the Premises Licence from the Applicant's Representative and seen the video footage. The Sub-Committee had also heard the Licensee's explanations in respect of the incidents. Members would need to determine the application for review of the Premises Licence having regard to the four licensing objectives and the Councils Licensing Policy.

The Applicant's Representative was then afforded the opportunity to sum up his case. He stated that the concerns of Trading Standards had been outlined during the meeting. The Licensee had indicated that he was selling the Premises and he asked Members to consider what effect there would be on the saleability of the Premises should the Licence be revoked.

The Licensee was then given the opportunity to sum up his case. He stated that the Premises had been up for sale since January 2007, before the incidents occurred.

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

RESOLVED:

That the Premises Licence granted in respect of the Why Not Off-Licence, 133 Belt Road, Hednesford, Staffordshire, be suspended for a period of one (1) calendar month; such suspension to take effect immediately after the expiry of any appeal period allowed under the Licensing Act 2003 against this decision.

Reasons for decision:

The Licensing Sub-Committee's reasons for reaching the decision are as follows: -

In accordance with the Council's Licensing Policy, the Licensing Sub-Committee recognised that it had to balance the benefits for the community of a licensed venue and its activities, and the promotion of the licensing objectives.

The Licensing Sub-Committee took into account the relevant provisions of the Licensing Act 2003 and Section 182 Statutory Guidance issued by the Secretary of State.

The Licensing Sub-Committee noted that it needed to carry out its functions under the Licensing Act 2003 with a view to promoting, in this instance, the licensing objective of protecting children from harm. The Licensing Sub-Committee also had regard to the relevant provisions of the Human Rights Act 1998.

The Licensing Sub-Committee was satisfied that all necessary procedures prescribed under the Licensing Act 2003 in bringing the Application for the Review of the Premises Licence had been complied with.

In considering the evidence the Licensing Sub-Committee gave the application careful consideration and had regard to all the relevant representations made and information and supporting evidence provided by the parties. The Licensing Sub-Committee noted that the application was supported by two Responsible Authorities, namely Staffordshire Police and the Environmental Protection Unit of Cannock Chase District Council, both having provided letters in support dated 15 August 2007 and 2 August 2007 respectively.

The Licensing Sub-Committee viewed and considered the video surveillance footage shown during the hearing and noted youths, who were under the legal age to purchase alcohol, entering the licensed premises and leaving with alcoholic beverages. The Licensing Sub-Committee further noted that no evidence was presented which suggested or confirmed that the Fixed Penalty Notices served upon the offending youths were being or had been successfully appealed.

The Licensing Sub-Committee noted that following four incidents relating to the sale of alcohol to underage persons involving the above mentioned premises, the Licensee was visited by a Community Safety Officer of Staffordshire County Council, who offered advice and material, which included a 'Refusals Book', in an effort to educate and assist the Licensee understand his legal obligations with regards the sale of alcohol.

The Licensing Sub-Committee noted that the Licensee was not at any time approached in relation to the incidents mentioned above and nor any action taken against the Licensee in respect of the same (save for this application for a review of the premises licence).

The Licensing Sub-Committee noted that Staffordshire County Council's Trading Standards Division undertook a test purchase exercise at the licensed premises on 22 September 2006, during which the sale of alcohol was refused to the underage test purchaser.

It was noted that the Licensee did not operate the 'Challenge 21' Scheme, although he was aware of it.

The Licensing Sub-Committee had regard to the representations made by the Licensee and noted that he had undertaken the nationally recognised British Innkeepers Institute course on licensing. The aforementioned course had been undertaken prior to the aforementioned incidents relating to the sale of alcohol to underage persons.

The Licensing Sub-Committee noted the Licensee's comments concerning the use of the Refusals Book, namely that he had filled the book some time ago as he refused alcohol sales up to 20- 30 times each day. However, it was also noted that the Licensee did not request another book or use an alternative means of recording such refusals.

The Licensing Sub-Committee noted that the Licensee admitted to selling alcohol to those youths shown in the video surveillance footage. It was further noted that the Licensee maintained that he had asked and been provided acceptable means of identification from the youths which confirmed their ages of at least 18yrs. The Licensing Sub-Committee noted that at no time was the Licensee at the material times questioned by police or council officers concerning the incidents shown on the video footage.

The Licensee confirmed that since January 2007 he has been trying to sell his business and expressed that the decision to sell was not in any way influenced by the incidents shown in the video footage.

The Licensing Sub-Committee in considering the aforementioned representations, facts and information, raised concerns over the Licensee's understanding of the statutory obligations and duties imposed on premises licence holders.

The Licensing Sub-Committee was of the view that the Applicant had not been able to satisfy the licensing objective of protecting children from harm and considered it just, fair and proportionate to suspend the premises licence in the circumstances.

The Licensing Sub-Committee was of the opinion that the suspension would enable the Licensee to seek advice, assistance and guidance in understanding his legal obligations and duties imposed by the Licensing Act 2003; and enable him to put in place more robust measures and steps to ensure that all the licensing objectives are observed.

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CHAIRMAN