

Record of a Hearing of the Keighley and Shipley Licensing Panel held on Wednesday 17 December 2008 in Committee Room 1, City Hall, Bradford

Procedural Items

DISCLOSURES OF INTEREST

No disclosures of interest in matters under consideration were received.

INSPECTION OF REPORTS AND BACKGROUND PAPERS

There were no appeals submitted by the public to review decisions to restrict documents.

Hearing

- 1. Application for a review of a Premises Licence for Tommy's Mini Market, 206-210 Leeds Road, Shipley (Document "G")**



2006-2007
Improving Rural Services
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INVESTOR IN PEOPLE

Suzan Hemingway, Assistant Director Corporate Services (City Solicitor)



RECORD OF A HEARING FOR AN APPLICATION FOR A REVIEW OF A PREMISES LICENCE FOR TOMMY'S MINI MARKET, 206-210 LEEDS ROAD, SHIPLEY (DOCUMENT "G").

Commenced: 1005
Adjourned: 1105
Re-convened: 1145
Concluded: 1150

Present:

Members of the Panel:

Keighley and Shipley Licensing Panel: Councillors Hill (Chair), L'Amie and Pullen.

Parties to the Hearing:

Representing the Applicant:

Mr Mullins, West Yorkshire Trading Standards Service, Applicant
Ms Charles, West Yorkshire Trading Standards Service, witness
Ms Harter, West Yorkshire Trading Standards Service, witness
Councillor V Greenwood, witness
Mrs Battensby, witness

Representing the Licensee:

Mr M Bashir, Licensee
Mr Hussain, witness

Observers:

PC Dawson, West Yorkshire Police
PC Jessop, West Yorkshire Police
Mr Bashir, Incommunities

Representations:

The licensing officer in attendance summarised the background to the application which included details of the current Premises Licence and valid representations received as set out in the report. The application for review had been submitted following underage sales of alcohol through direct sales and by proxy. An attempt to pervert the course of justice by giving false information to Trading Standards Officers had also been made. It was also noted that the following licensing objectives, prevention of crime and disorder and protection of children from harm, were of particular importance.

The applicant reported that complaints in relation to underage sales of alcohol and counterfeit DVDs had been received about the premises from August 2007. A Ward Councillor, who had received reports from residents and a local resident who had made complaints were present as witnesses for the applicant, Trading Standards. The applicant explained that the business had been sold on 24 August 2007, however, the licence had not been transferred into the new owners name until 5 November 2007. On 28 October 2007 the store was visited as part of a Test Purchase operation and alcohol was sold to an

underage person. The West Yorkshire Trading Standards Service conducted an interview on 7 November 2007 with the seller of the alcohol, who had stated that he was the brother of the Manager of the premises, Mr Bashir, and a man who had identified himself as Mr Singh, the current owner of the business and the Designated Premises Supervisor (DPS). It later transpired that an impostor had pretended to be Mr Singh, who was not the owner at that point in time and this person had never been identified. On 29 February 2008 the police and Trading Standards officers had visited the premises and confiscated 61 counterfeit DVDs. The owner was interviewed and given a simple caution on 18 April 2008. The applicant confirmed that various complaints had been received during the period February to April 2008 regarding the sale of alcohol to children by proxy and this had been witnessed by a Trading Standards officer. On 18 April 2008 an officer purchased alcohol for an underage child, even though the sales assistant had been informed of the situation. Other attempts to purchase cigarettes and alcohol in May and September 2008 had not been successful. In conclusion the applicant stated that the key issue of the case was that the protection of children from harm Licensing Objective was being flouted and there appeared to be a serious problem in the premises. Complaints were still being received by the Trading Standards Service and the licensee did not appear to be taking his responsibility seriously. A caution had been served in relation to the selling of counterfeit DVDs and there was also the issue of an impostor pretending to be the previous owner. The applicant therefore requested that the licence be revoked.

The applicant then called the Ward Councillor as a witness and in response she provided the following information:

- That she was the Ward Councillor for the area.
- That she had received numerous complaints for number of years with regard to the selling of alcohol to underage persons.
- That she had been present when the counterfeit DVDs had been found and confiscated.
- That local residents had complained regarding the selling of alcohol.
- That the issue had been raised at many local meetings.
- That the police had been contacted and informed of the residents concerns.

A local resident was then called as a witness and outlined the following points:

- That she lived in close proximity to the premises.
- That she had witnessed under 18s leaving the shop with cigarettes and alcohol.
- That there was a group of young people that loitered around the outside of the shop smoking and causing a nuisance for residents.
- That she had been informed that underage persons often went into the shop to purchase alcohol.
- That property had been vandalised and the young people involved had stayed in the shop until the police had left.
- That she knew a couple of the young people and could verify that they were underage. The police had also confirmed that the other young people in the group were under 18.

The Licensee stated that during the Test Purchase operation the Trading Standards officer had not indicated that the purchase was for a child outside the premises and queried the number of young people that allegedly waited outside his shop. In response the applicant stated that the information was contained within the officer's statement and that he was confident of its accuracy. The Licensee had been interviewed by a police officer, working alongside the Trading Standards officer and a decision had been made to instigate a review of the premises following this. With regard to the number of persons in the group, it was reported that there could be as many as 10 children at any time.

The Licensee informed the Panel that this was his first business and he had not realised that the premises licence would not be automatically transferred into his name. He stated that he had not been present when alcohol had been sold to underage persons and had no knowledge of the interview that had taken place between his brother, the alleged impersonator and the Trading Standards Service. The incident had only come to his attention in December 2007 when his brother had confessed what had happened and the Trading Standards Service had not contacted him until April 2008. The Licensee confirmed that his brother no longer worked in the premises. He explained that he had tried to move the group of young people away from the shop and that he did not sell much alcohol. The premises next door to his sold alcohol and he indicated that young people went in there. He reported that his premises had been closed for a month due to refurbishment and that incidents had still taken place, which proved that his premises were nothing to do with the ongoing issues. It was stated that a 16 camera CCTV system had been installed in the premises and that the police had been informed that they could inspect the footage.

Members' questions received the following responses:

- That the Licensee's brother had sold alcohol to an underage person and he, along with the person who had identified himself as the premises licence holder, Mr Singh, had been interviewed on 7 November 2007. The Licensee had been present in the shop at the time of the sale.
- That the Licensee's brother had supervised the shop in the Licensee's absence.
- That the counterfeit DVDs had been purchased from the Sunday market on Great Horton Road.

The Licensee's uncle was then called as a witness and stated the following:

- That it was his nephew's first business and he did not want to do anything illegal.
- That the problems in the area had been ongoing for years.
- That there were 3 other off-licence premises in the area.
- That his nephew had made a mistake by purchasing DVDs from a market.
- That his nephew was hard working.
- That he believed that the shop was being targeted.
- That he believed that the shop next door was against his nephew's business.

In response to the comment made about the shop being targeted, the Council's legal officer confirmed that the shop had been targeted as evidence suggested complaints had been received in relation to the selling of alcohol to underage persons. Other premises receiving similar complaints were also targeted.

In response to questions the Licensee advised Members:

- That he had employed a solicitor to oversee the purchase of the premises, however, he had only seen him once or twice.
- That he had stopped selling alcohol whilst the premises was being refurbished. The alcohol had been moved to a separate area of the shop and signs were displayed stating that only over 18's were allowed. This was evident on CCTV footage.
- That the young people gathered around his premises as he sold a lot of confectionary and was pleasant to them.

In summary the applicant reported that the premises had been targeted and a review submitted as a response to the complaints from the public with regard to the sales of alcohol, cigarettes and fireworks to underage persons. He stated that a great deal of work

had been undertaken to ensure that evidence was gathered. The response to the initial Test Purchase operation had been a simple caution, however, further investigations had been required and it was believed that the Licensee was not meeting the licensing objectives.

The Licensee concluded by confirming that his premises were an official DVD outlet now. He had not been aware of the incident where alcohol had been sold to an underage person and his brother no longer worked on the premises. A CCTV system had been installed in the shop due to the problems in the area. The Licensee reiterated that the premises had been closed for a whole month and anti-social behaviour had still taken place in the vicinity.

Decision

That having considered all valid representations made by the parties to the hearing, all valid written representations received during the statutory period, the published statement of licensing policy and relevant statutory guidance; the panel finds as follows:

- 1. That the premises licence be suspended for a period of 28 days.**

Reason: In the light of persistent incidents outlined by West Trading Standards of sales of alcohol directly or by proxy to underage youths at the premises; including evidence of the Licensee's failure as both premises licensee and as designated premises supervisor to properly supervise the premises in order to prevent breaches of licensing and other trading regulations, and to ensure compliance with licence conditions; the Panel found that suspension of the licence was justified - prevention of crime and disorder and protection of children from harm objectives.

- 2. That on resumption of the licence a CCTV system with internal and external coverage shall have been installed, and confirmation in writing obtained by the Licensee that it is to a specification that satisfies the requirements of the Licensing Authority in consultation with West Yorkshire Police, and thereafter used at all times the premises remain open to the public for licensable activities and maintained in good working order thereafter. Any CCTV footage shall be kept for at least 28 days and be available to the Licensing Authority or a Responsible Authority on request.**

Reason: In order to ensure that the Licensee takes all steps in his control to monitor the use of the premises by children and underage teenagers and to ensure that the existing CCTV system operates effectively in deterring/monitoring unruly behaviour and access to alcohol by underage customers – prevention of crime and disorder and protection of children from harm.

- 3. That an appropriate proof of age policy, incorporating the principles of the "Think 21" Campaign be implemented; incorporating measures to ensure that any patron wishing to purchase alcohol who may reasonably appear to be under 21 years of age are asked to prove they are at least 18 years old by displaying evidence of their identity and age in the form of a valid UK passport or new-style driving licence displaying their photograph.**

Reason: To assist in ensuring that underage people do not gain access to alcohol – prevention of crime and disorder and protection of children from harm objectives.

4. That all staff employed in the premises must be adequately trained in their responsibility for enforcing the proof of age policy, all relevant conditions of licence, and all relevant licensing laws.

Reason: To assist in ensuring that underage people do not gain access to alcohol – prevention of crime and disorder and protection of children from harm objectives.

5. That the Licensee be formally warned as to future conduct with regard to ensuring compliance at all times in the future with relevant licensing laws and conditions or other relevant legislation; particularly in relation to selling alcohol to juveniles or allowing or causing other unlawful activities to take place at the store. The Licensee is warned that if further breaches are substantiated and are subject to review, the Panel will give serious consideration to revocation of the licence.

Reason: It is the responsibility of holders of premises licences to ensure compliance at all times of licence conditions and relevant licensing legislation in the interests of furthering the licence objectives.

Chair

Note: This record is subject to approval as a correct record at the next meeting of the Licensing Committee.

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