

## **Record of a Hearing of the Bradford Licensing Panel held on Tuesday 17 February 2009 in Committee Room 1, City Hall, Bradford**

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### **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. Two applications for a Review of the Premises Licence for Idle Village Off-Licence, 10 Bradford Road, Idle, Bradford (Document "N")**



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Suzan Hemingway, Assistant Director Corporate Services (City Solicitor)



**RECORD OF A HEARING FOR TWO APPLICATIONS FOR A REVIEW OF THE PREMISES LICENCE FOR IDLE VILLAGE OFF-LICENCE, 10 BRADFORD ROAD, IDLE, BRADFORD (DOCUMENT "N").**

Commenced: 1415  
Adjourned: 1855  
Re-convened: 1910  
Concluded: 1915

**Present:**

**Members of the Panel:**

Bradford Licensing Panel: Councillors Hill (Chair), Flowers and Chadwick.

**Parties to the Hearing:**

**Representing Responsible Authority Applicant for Review:**

Mr Tyson, West Yorkshire Police  
Inspector Tuff, West Yorkshire Police, Witness  
PCSO Watson, West Yorkshire Police, Witness  
Councillor Sunderland, Bradford Council, Witness  
Ms Charles, West Yorkshire Trading Standards, Witness

**Representing the Interested Party Applicant for Review:**

Mr Niland, representing Mrs Varley  
Mrs Varley, Applicant

**Representing the Licensee:**

Mr Cordingley, representing the Applicant  
Mr B Singh, Licensee and Designated Premises Supervisor  
Mr M Singh

**Interested Parties:**

Mr Hooson, the Neighbourhood Watch  
Mr Peach, Idle Tenants Association

**Observers:**

PC Dawson, West Yorkshire Police  
PC Jessop, West Yorkshire Police  
Mr Logan, local resident  
Mrs Hooson, local resident  
Mr Godding, local resident  
Mrs Peach, local resident

**Representations:**

The licensing officer in attendance summarised the background to the two separate applications received for review including details of the current Premises Licence, the current licensing conditions, the grounds set out in the two review applications and the valid representations received as set out in the report.

The Council's legal officer questioned whether Members believed that Pool Court, BD3 9AH was within the vicinity of the premises and it was unanimously agreed that the address should be disregarded with regard to the representations received.

In response to a query Members were informed that the original licence had been issued on 25 July 2007.

The West Yorkshire Police representative explained that they had received the supporting documentation from the Licensee's representative less than two working days prior to the hearing and indicated that the information could have been served earlier. On this basis he requested that the information be disregarded. In response the Chair confirmed that the documentation had been received within the set timescales and, therefore, would have to be considered. The Council's legal officer added that an adjournment could be granted if required in order to give the parties time to consider the documentation.

The police's representative confirmed that the police had submitted the application for review due to alleged sales of alcohol to children, the conduct of the Licensee and incidents alleged to be connected to the underage sales. There had also been a breach of Condition 7 of the Licence, as it had been found that the CCTV system was not capable of recording for the required period.

The police's representative reported that he would address the four licensing objectives within the review, that the licence had been granted in July 2007 and the premises were authorised to sell alcohol for consumption off the premises only. CCTV footage had been viewed and several underage purchases had been identified. West Yorkshire Trading Standards (WYTS) and a local Ward Councillor had also made a complaint to the police in relation to the operation of the premises. He confirmed that the police had not carried out test purchases at the premises, however, Trading Standards had. The premises CCTV system did not comply with the licence as it could not record 28 days of footage or download the information onto a disc. Alcohol had been confiscated from young people in the area and their details taken. Statements had also been taken from these young people with the consent of their parents. He then explained that the Neighbourhood Policing Team Inspector would be called as a witness to address the Panel about the police concerns discussed with the Licensee and general problems in relation to the management of the premises.

The police's representative then called the Neighbourhood Policing Team Inspector as a witness and he brought the Panel's attention to the following:

- That he had attended meetings with residents and Councillors.
- That there had been an upsurge of young people coming into the area when the premises had opened and complaints had been made.
- That he had tried to resolve the issues with the Licensee prior to this course of action being undertaken.
- That alcohol had been seized from young people in the area.
- That he had visited the premises on 10 June 2008 and spoken to an employee. He had called again on 21 July 2008 and viewed the CCTV footage. He had also given advice in relation to measures that could be put in place regarding underage sales.

- That he had spoken to the Licensee at the police station with the police's licensing officer for Bradford North on 1 October 2008. An action plan had been presented to the Licensee, however, none of the issues had been resolved and a number of underage sales had occurred since.
- That WYTS had undertaken test purchases at the premises but the police had not. In relation to test purchases a set protocol was followed and the police would not approach the general public on the street to undertake them.
- That issues were still occurring and three people had been arrested for drunk and disorderly conduct outside the premises at night.
- That he believed that the elderly local people had genuine concerns in relation to the premises.

A Member questioned whether, in light of the experience of the Neighbourhood Policing Team Inspector, the Licensee had been given sufficient time to change the practice within the premises from when concerns were first raised in June 2008. In response the Neighbourhood Policing Team Inspector indicated that changes should be expected to take two to three months to bring into effect. It had now been approximately six months since he had addressed issues of concern with the Licensee and there were still prevalent issues associated with the store. The premises were still supplying alcohol to youths in and around the area.

The Trading Standards officer was then called as a witness and provided the following information:

- That five complaints had been received, one from the police and four from members of the public, from June to September 2008.
- That she had written to the Licensee to advise him of the complaints.
- That on 5 September 2008 a test purchase had been carried out at the premises and the sale refused.
- That the test purchase had been followed by a proxy sale, where a Trading Standards officer attempted to buy for an underage person, and the purchase had been made.
- That further complaints had been received in relation to the premises.
- That in November 2008 a further test purchase had been refused.
- That a further letter had been sent to the Licensee prior to the second test purchase being undertaken, which included a guidance pack for the Licensee.

In response to a Member's question the Trading Standards officer confirmed that she had not been to the premises since the guidance pack had been sent, so she was not aware whether the Licensee was using the pack or not. It was noted that receipt of the pack had been confirmed by the Licensee.

The police's representative then called the Ward Councillor as a witness and in response she provided the following information:

- That the houses near to the premises were mainly housing association properties with elderly residents.
- That the premises had been a constant concern since it had opened.
- That she was concerned in relation to the sale of alcohol to young people, as it led to anti-social behaviour.
- That additional resources were required to rectify the damage caused by anti-social behaviour.
- That the premises were causing residents to be anxious and lose enjoyment of their homes.

- That the licence should be removed as the premises was not meeting the licensing objectives.

In response to a Member's question the Ward Councillor confirmed that she resided in the area and walked in the area regularly during the evening. She confirmed that she had never seen such a regular congregation of youths outside the other off-licence in the area and that the community were quick to point out where the problem was stemming from.

The police's representative then highlighted other statements presented as evidence and outlined the issue regarding the CCTV system. He explained that on 28 October 2008 a police sergeant had found it difficult to access the monitor and recording equipment and had seized the equipment against receipt. On returning the equipment the person in the premises was informed that the equipment was not suitable to comply with the licensing requirements. On 5 November 2008 footage from the premises was viewed by the police sergeant and a Police Community Support Officer (PCSO), who identified a number of underage sales of alcohol and cigarettes.

In response to Members' questions regarding the CCTV information provided to the police it was reported that the footage was not downloaded on a regular basis and that the evidence should have been maintained for 28 days. No further information had been provided since, however, the Licensee had stated that his son had handed in a disc during January 2009, which could not be traced. Members were also informed that it had proved difficult to speak to the Licensee in person and that the police had been given the contact details of his son.

At this point in the proceedings, with the agreement of the police and the representative of the Licensee, the Panel passed the following resolution in order to facilitate consideration of evidence to be presented by the police.

#### **Resolved -**

**That, in accordance with paragraph 14(2) of the Licensing Act 2003 (Hearings) Regulations 2005, the public be excluded from the hearing (save for the representatives of the Police and the representatives of the Licensee) during the showing of a CD-Rom presented as evidence by the Police. The Panel considered that there was an overriding public interest in protecting the privacy and personal data of third parties who may be shown on the CD-Rom evidence.**

At this point, 15.40 hours, the meeting resumed in a public session.

The Licensee's representative questioned the police witnesses and the following responses were provided:

- That the Licensee had not been specific and had only mentioned to the police that he had previous experience of running off-licences.
- That the police had received the documentation submitted by the Licensee's representatives, but had not had sufficient time to look at it in detail.
- That the crime statistics would only relate to part of the problem and that other issues had to be taken into account.
- That the police had not carried out any test purchasing at the premises, however, WYTS had and they had been accompanied by the police.
- That on 10 June 2008 the Neighbourhood Policing Team Inspector had visited the premises, in uniform with a PCSO and believed it to be trading as it was open.
- That WYTS had a record of the people that had made a complaint about the premises.

- That the Ward Councillor had not contacted the Licensee or his son at any point.

The Interested Party Review Applicant's representative addressed the meeting and explained that the applicant felt frightened and intimidated by the young people that congregated outside the premises. The police had been helpful and had attended when they had been called. He commented that the young people in the area knew that the premises would sell them alcohol and cigarettes and that this had led to anti-social behaviour in the area. The carrier bags used by the premises could be identified and, therefore, they had ceased to supply a bag if alcohol was purchased. The Interested Party Review Applicant's representative indicated that the applicant was elderly and that her life and the lives of other residents had been disrupted since the premises had opened.

The Interested Party Review Applicant responded to questioning from the Licensee's representative as follows:

- That the front of the applicant's property was opposite the off-licence.
- That the premises had been seen to be open until 12 midnight on a Saturday.
- That youths had been seen to congregate outside the applicant's house, sit on her garden wall, throw litter into her garden and behave badly.
- That the young people who congregated around the applicant's property had been seen to enter and exit the premises with alcohol.

The representative of the local Neighbourhood Watch addressed the meeting and explained that the Scheme had been established at the end of October 2008 due to the problems in the area escalating. Anti-social behaviour was prevalent and the elderly residents were concerned.

The representative of the Idle Tenants Association informed the Panel that the anti-social behaviour issues were increasing. Youths had been sighted with alcohol in a passageway on the estate that could be traced back to the premises, as it was a specific brand that they sold.

The Licensee's representative stated that the Licensee had operated his own business for 20 years and had four off-licences in total. The Idle Village premises had required significant refurbishment and had not opened to the public until 19 June 2008. The Licensee held the appropriate qualification and a personal licence and had adhered to all of the four licensing objectives. The Licensee's representative stated that he believed that the matter had been exaggerated and untruths told and that the review had been submitted on the basis of a personal vendetta. He then outlined the content of the information presented in support of the Licensee, which included letters to confirm the commencement of trading; letters from local residents; witness statements and statements from the Licensee and his son.

The Licensee's representative informed the Panel that the Licence had been issued on 25 July 2007, however, the premises had not been open to the public until 19 June 2008. The Neighbourhood Policing Team Inspector had previously stated otherwise and the Trading Standards officer had indicated that the complaints had been received from 2 June 2008, which was prior to the premises being open. The Licensee's representative indicated that test sales had been carried out with negative results and that a proxy sale had not been well executed by a Trading Standards officer. He also believed that the evidence submitted by officers was not reliable or accurate.

The Licensee's representative confirmed that there was not a prosecution pending against his client and intimated that the easiest action for the police had been to request the removal of the license through a review. The premises' CCTV system met the required

obligations and the Licensee had obtained proof of age from customers which he believed to be authentic. He reported that the premises had been closed from 21 to 28 August 2008, however, a statement from a police officer mentioned that he had attended the premises on 23 August 2008. The groups of youths that had congregated outside the premises had now been moved on and witness statements had been obtained from local young people who used the premises. The Licensee's representative then pointed out that there were also other off-licenses, public houses and take-away outlets in the vicinity.

In response to the comments made a Member questioned whether the Licensee's representative was disputing the evidence presented by the police's representative. He also queried whether the Licensee fully understood his responsibility and requirement to adhere to the four licensing objectives. The Licensee's representative stated that he would not withdraw the statements made and that he believed there to be a conflict of evidence.

The Licensee was then called as a witness and made the following comments:

- That he had held a licence for the past 5 years.
- That he acknowledged there was a problem with young people in the area.
- That the premises had been vandalised whilst he had been setting up the business.
- That there would always be trouble in the area.
- That he had experienced negative vibes from the police and local residents.
- That he had asked his employees to request proof of age.
- That he believed that the action against him was part of a 'witch hunt'.
- That he was sad and dismayed with regard to the organised campaign against him.
- That the Neighbourhood Policing Team Inspector had told him to shut the shop when he had last seen him.
- That he did not believe that the problems in the area were anything to do with him.
- That he had co-operated with everyone.
- That he had not done anything wrong.

In response to questions the Licensee advised Members:

- That he had been informed that the CCTV system was time lapsed recording and therefore covered the licensing requirement. However, he had had to purchase a new system when his CCTV system had been returned by the police and this complied with the licence.
- That he had a book where names and proof of age was registered. Employees were told not to sell alcohol if proof of age could not be provided.
- That he was present at the premises everyday for 3-4 hours along with his wife.
- That he did not have a problem with the local residents.
- That he disputed the claims that all the problems in the area were due to his premises.
- That he strongly disagreed that alcohol had been sold to anyone underage.
- That he had seen intoxicated young people in between his premises and the other off-licence.
- That he was not aware of young people purchasing alcohol from his premises.
- That he had trained his staff verbally.
- That he had attended college to obtain his personal licence approximately 3 years ago, but had not undertaken any further training since.
- That the premises did not have a problem regarding drugs and his employees had not received training in relation to them.
- That the Neighbourhood Policing Team Inspector had his contact details and had contacted him. He was also present at the premises 3 – 4 hours everyday.

The Licensee's son also stated as follows:

- That he had seen and used the pack sent by Trading Standards, but he had not submitted the register they had sent him as evidence. He now realised that the register should have been presented.
- That he, his mother and cousin would be attending a course so that they could become Designated Premises Supervisors and be aware of the law.

In response to questions the Neighbourhood Policing Team Inspector confirmed to Members:

- That he could not comment on the log numbers of the calls made by the Licensee to the police, however, he acknowledged that the Licensee had called for police assistance previously.

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

- That he was aware of the severity of the issues.
- That he would not like any of his neighbours to come to harm.
- That he had contacted the residents on a number of occasions to ask how the premises could help. He had also posted his contact details to them.
- That there were permanently 2 members of staff on the premises, so that they could move on groups of youths and check if youths were asking people to purchase items on their behalf.
- That they had taken more precautions and the police had not visited the premises since the beginning of the year.
- That the police had been called by the store as a neighbour had come into the shop and been verbally abusive towards staff.
- That the premises had not opened until 19 June 2008.
- That the Neighbourhood Policing Team Inspector had visited the premises, but the shop front had not been completed. There was shelving in the premises and goods from another of their premises were on display.
- That he accepted that youths congregated outside the premises.
- That he acknowledged Idle Village had problems.
- That there were other premises in the vicinity.
- That youths now gathered outside the Co-Operative's premises and another off-licence in the vicinity.
- That he had witnessed adults go into the Swan Public House and purchase alcohol for the youths that congregated outside.
- That he had tried to liaise with the police as much as possible.
- That he had been told by the police that they would not attend when he rang them and that the number of calls made by the premises would be detrimental to the premises case.
- That youths from the area had made witness statements for the premises that purported that the police and PCSOs had approached them and asked them to buy alcohol and cigarettes from the premises.
- That in the past year the police had gathered in the vicinity of the premises and the local youths had informed him that they had asked them to undertake test purchases.
- That he had been followed home by unmarked police vehicles in the past.

The Council's legal officer questioned whether the Licensee's son was suggesting that the elderly residents had colluded with the police to have the premises licence removed. He



also questioned that if it was true, as argued by the Licensee, that the Police had suggested to the Licensee previously that they could not attend incidents outside the store because they had higher priorities to deal with, then why would they allocate such inordinate resources in allegedly harassing him. In response the Licensee's son acknowledged that the premises had its problems, but that he had been to residents' properties and left his contact details so that he could help resolve the issues. He indicated that he was not sure why the police would follow him and highlighted the length of time they had taken to submit their request for a review. The Council's legal officer suggested that there was a problem with the premises as two reviews had been submitted. The Licensee's son was also cautioned by the Council's legal advisor against making such serious allegations of police harassment unless he could substantiate this.

The police's representative questioned the Licensee and his son and the following responses were provided:

- That the Licensee's nephew, who was 18 years old, was employed in the premises.
- That the witness statements from local youths had been gathered during this and the previous year. Some of the youths had wanted to make a complaint and they believed that it was unfair that the premises were being blamed.
- That one of the youths who had supplied a statement had worked in the shop in order to identify those customers who were underage.
- That the youths who had provided a witness statement had not been pressurised to do so.
- That he acknowledged that some of the statements made serious allegations.

In summary, the police's representative commented that the "witness statements" presented by the Licensee in support of his case would not stand up to scrutiny if the matter was progressed and one of them had been provided by a person who had an issue with the police. The police's evidence would stand up to scrutiny and advice had been sought from the Force Solicitor. The Neighbourhood Policing Team Inspector had visited the premises on 10 June 2008 due to concerns and the opening date of the premises had been disputed. The Licensee's representative had also contended that the premises had been open on 23 August 2008, however, police statements had been provided that contradicted this.

The police's representative informed the Panel that the test purchase procedure was within the Licensing Act 2003 and both the police and Trading Standards were authorised to undertake them. Training was given to police officers and the young people were recruited and vetted. Proxy sales were also part of the Licensing Act 2003 and procedures had been correctly followed by Trading Standards. He reiterated that the police had not undertaken any test purchases at the premises.

In relation to the CCTV system in the premises, the police's representative explained that it was covered by a condition on the licence and the Licensee had been informed that the system's hard drive had been replaced to one more suitable by the police.

In summary, the Interested Party Review Applicant's representative requested that the Panel considered the comments made by the residents and that the effect the premises had was detrimental to achieving the licensing objectives and raised concerns in relation to the training provided for employees.

In summary the Licensee's representative intimated that the premises had been targeted for no good reason. He reported that the review submitted by the local resident cited six grounds, however, only one was relevant. Complaints about the premises had also arisen prior to the shop opening. He indicated that the Ward Councillor had expressed her

and not contacted the Licensee in relation to her concerns by Trading Standards, though this had produced a negative response. The representative stated that his clients were responsible people, especially with the police. However, he believed that the Licensee should take an example of the premises. The Licensee had contacted the police and had received an unhelpful response.

At the proxy sale, the Licensee's representative informed the Panel that the procedure undertaken by Trading Standards was a fair one. He had not suggested that the police had stolen the Certificate and that the premises had not been in a satisfactory working order on its return. The representative also outlined incidents that had occurred at the premises.

The representative then highlighted the positive email correspondence that supported the facts at the time. The statements of the Licensee and the evidence submitted by the police and the local youths had been provided without malice.

The Licensee's representative confirmed that the premises were used by the family. He acknowledged that there were issues in the premises that should remain in place.

**Having considered all valid representations made by the parties and after thorough reviews; the published statement of licensing policy; the Panel revokes the premises licence.**