

## **Record of a Hearing of the Bradford Licensing Panel held on Monday 21 May 2012 in Committee Room 3, City Hall, Bradford**

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### **Procedural Items**

#### **DISCLOSURES OF INTEREST**

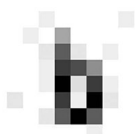
No disclosures of interest in matters under consideration were received.

#### **INSPECTION OF REPORTS AND BACKGROUND PAPERS**

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

### **Hearing**

1. **Application for a Premises Licence for Kubus Mini Market, 107 Little Horton Lane, Bradford (Document "J")**
2. **Application for Review of a Premises Licence for K & B Waters & Son, 79 Park Road, Bradford (Document "K")**
1. **Application for Review of K & H News & Off Licence, 122C Morley Street, Bradford (Document "L")**



**INVESTORS  
IN PEOPLE**



**2009-2010**  
*Positive engagement  
of older people*  
**2006-2007**  
*Improving Rural Services:  
Empowering Communities*



**BRADFORD**  
METROPOLITAN DISTRICT COUNCIL

**RECORD OF A HEARING FOR A PREMISES LICENCE FOR KUBUS MINI MARKET,  
107 LITTLE HORTON LANE, BRADFORD (DOCUMENT "J").**

Commenced: 1000  
Concluded: 1005

**Present:**

**Members of the Panel:**

Bradford Licensing Panel: Councillors Ruding (Chair), Dredge and L'Amie.

**Representations:**

The Council's Licensing Officer explained that the applicant had requested that, due to his admittance to hospital on that day, the hearing be adjourned for consideration at a future meeting.

**Resolved –**

**That, at the request of the applicant, the item be adjourned for consideration at a future meeting.**

Chair

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

**RECORD OF A HEARING FOR A REVIEW OF A PREMISES LICENCE FOR K & B WATERS & SON, 79 PARK ROAD, BRADFORD (DOCUMENT "K").**

Commenced: 1005  
Adjourned: 1105  
Re-convened: 1130  
Concluded: 1135

**Present:**

**Members of the Panel:**

Bradford Licensing Panel: Councillors Ruding (Chair), Dredge and L'Amie.

**Parties to the Hearing:**

**Representing the Responsible Authority Applicant for Review:**

PC Dawson, West Yorkshire Police (WYP)

**Representing the Licensee:**

Mr Waters, Licensee  
Mr S Stell, Legal Representative

**Representations:**

The licensing officer in attendance reported that West Yorkshire Police (WYP) had applied for a review of the premises licence following two incidents of underage sales of alcohol being disclosed during "test purchase exercises at the premises within a three month period. Copies of the premises licence, the application for review and an extract from Government guidance on the review process were appended to her report.

The representative of WYP explained that an operation had commenced in the City Ward in September 2011 following the receipt of intelligence that alcohol had been available to underage persons in that area. She provided detailed accounts of two visits by test purchasers to K & B Waters & Son on 21 October and 18 November 2011. On those occasions alcohol had been sold to test purchasers who were aged 16. Following the incidents the Licensee had been prosecuted under the Licensing Act 2003. The prosecution was the Licensee's second conviction under the Licensing Act 2003. Statements taken by police officers in relation to the incidents that had been submitted in support of the application to review the licence were referred to in detail.

IN response to questions from the Panel and the Council's legal officer the representative of WYP confirmed the following:-

- Test purchasers were volunteers, aged between 13 and 17, who were selected because they looked young. They were advised not to dress older than their age and that the girls must not wear make up or false tan. If they arrived for an operation and the police felt they looked older than their age the operation would be cancelled.
- Briefings were conducted prior to test purchases where the volunteers were told that if questioned they must not lie about their age and explain that they did not

possess any identification. Test purchases were accompanied by a plain clothes officer whose role was to observe the operation and ensure the safety of the volunteers.

- Following observation of a purchase the plain clothes officers would advise the Police Licensing Officer waiting nearby to remain on the premises until the licensing officer arrived to deal with the incident and record details in a pocket notebook very shortly afterwards.
- The Licensee had been observed drinking alcohol in the store, it was believed he was under the influence of drink and he became verbally aggressive when questioned.

The Licensee's legal representative then questioned the representative of WYP and was informed that his client had not been tested for alcohol but that it was her opinion based on her experience as a police officer. She noted that the Licensee's eyes looked glazed and his speech slurred making it clear that he was under the influence of alcohol.

The Licensee's legal representative addressed the meeting as follows:-

His client did not dispute the incidents which had occurred and since that time had introduced new policies and procedures to ensure they were not repeated. A detailed account of those procedures and staff training, following the employment of a retail licensing and training consultancy, were provided. Photographs of signage at the premises complying with the Challenge 25 policy; certification of completion of a 'Guide to Selling Alcohol' workshop for two employees and a Premises Refusal Log were circulated to Members. It was argued that the significant cost incurred in taking those measures demonstrated he did not take the incidents lightly.

It was also suggested that the business had been established in 1966 with the Licensee being employed at the premises since he had left school 32 years previously. CCTV had been installed on the premises despite this not being a condition of the licence. A previous conviction referred to by WYP had been following an extension to licensing hours prior to variation of the licence. As soon as the licensee had been made aware of the offence he had successfully applied for variation of the licence. Previous policy had been to challenge purchasers who appeared to be under 18 years old. Following extensive staffing training anyone who appeared to be under 25 would be asked for identification to prove that they were aged 18 or over.

On the evening of 18 November it was suggested that his client had been working in the shop since early in the morning and was taking refreshment during the last hour of operation. He accepted that his conduct was not proper and the business now had a policy which inhibited drinking during hours of operation.

The business was a community convenience store employing five people. It provided a pay point for people to pay bills and would be a source for people without access to a bank account to receive their benefits. Alcohol sales accounted for 30% of its business and revocation of the licence would impact on the viability of the business.

In response to questions the licensee and his legal representative confirmed that:-

- It was unsatisfactory to fail test purchases. Steps had been put in place and they were confident the incidents would not be repeated. It had been difficult to assess if purchasers were aged 18. Customers were now challenged if they appeared to be under 25.

- The refusal log had been commenced in April 2012 following implementation of due diligence policies suggested by the licensing consultants. The licensee had previously been unaware of staff training measures. Employee training was now undertaken on a regular and ongoing basis.
- An assessment of the suitability to purchase alcohol was undertaken and if customers appeared to be unsteady or slur their words they were refused purchase.
- The licensee had drunk two cans of lager on the 18 November.

In summation the representative of WYP believed that the licensee had been complacent about his responsibility under the Licensing Act 2003. It was noted that a consultancy firm had been employed to address the situation but, as there had been conditions on the licence previously; it was felt that those measures should already have been in place on the premises. The WYP representative confirmed that the Licensees' legal representative had suggested appointment an employee as DPS in place of his client. Members were asked to consider the options available to them; but given the seriousness of the repeated offences that had taken place at the premises the Panel might consider revocation of the licence was appropriate. If the licence was not revoked; a number of conditions were requested including the implementation of a Challenge 25 policy; an additional staff member to hold a personal licence; a personal licence holder be on the premises at all times; a reduction in hours and CCTV to be available at the premises.

The Council's legal representative sought clarification of the WYP representative's suggestion that licensing hours of operation should be reduced. In reply the WYP representative stated her belief that mistakes were more likely if the licensee was working from 7am to 11pm.

The Licensees legal representative, in summary, confirmed that he was happy with the majority of the suggested conditions. An employee of the stores would be taking a personal licence course the next day. It was stressed that the current hours of operation were necessary for the business to remain viable and competitive.

#### **Resolved –**

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

- 1.1 That Mr Waters be removed as Designated Premises Supervisor from the licence forthwith.**
- 1.2 That the premises licence be suspended for a period of 84 days.**
- 1.3 That on the resumption of licensable activities a personal licence holder be on the premises at all times that licensable activities takes place.**
- 1.4 That a CCTV system (with satisfactory internal and external coverage) be installed at the premises and be maintained in good working order and used at all times the premises remain open to the public for licensable activities. Any CCTV footage shall be kept for at least 28 days and be available to the Licensing Authority or a Responsible Authority on request.**
- 1.5 That an appropriate proof of age policy, incorporating the principles of the "Challenge 25" Campaign be implemented; incorporating measures to ensure that any patron wishing to purchase alcohol who may reasonably appear to**

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be under 25 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.

The Panel explained that they had given serious consideration to revocation of the licence. They gave formal warning that if other incidents came to their attention on resumption of the licence they would, subject to giving due consideration to relevant representations received, seriously consider revoking the licence.

**Reason:** It is considered that given the serious nature of the offences of underage sales proved to have taken place at the premises, suspension of the licence is appropriate. It is also considered that on resumption of licensable activities the above conditions are necessary in order to ensure proper supervision of the premises to secure prevention of sales of alcohol to underage people – Protection of children from harm objective.

(Melanie McGurk – 01274 431873)

Chair

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

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THESE RECORDS HAVE BEEN PRODUCED, WHEREVER POSSIBLE, ON RECYCLED PAPER

**RECORD OF A HEARING FOR A REVIEW OF A PREMISES LICENCE FOR K & H NEWS & OFF LICENCE, 122C MORLEY STREET BRADFORD (DOCUMENT "L").**

Commenced: 1135  
Adjourned: 1200  
Re-convened: 1230  
Concluded: 1235

**Present:**

**Members of the Panel:**

Bradford Licensing Panel: Councillors Ruding (Chair), Dredge and L'Amie.

**Parties to the Hearing:**

**Representing the Responsible Authority Applicant for Review:**

PC Dawson, West Yorkshire Police (WYP)

**Representing the Licensee:**

Mr Khodadad Hassani, Licensee  
Mr J Brassington

**Representations:**

The licensing officer in attendance reported that West Yorkshire Police (WYP) had applied for a review of the premises licence following two underage sales of alcohol made within a three month period. Copies of the premises licence, the application for review and an extract from Government guidance on the review process were appended to her report.

The representative of WYP explained that an operation had commenced in the City Ward in September 2011 following the receipt of intelligence that alcohol had been available to underage persons in that area. She provided detailed accounts of two visits by test purchasers to K & H News & Off Licence on 21 October and 18 November 2011. On those occasions alcohol had been sold to test purchasers who were aged 16. On both occasions the Designated Premises Supervisor had not been on the premises. Following the incidents the Licensee had been prosecuted under the Licensing Act 2003.

Prior to the incidents discussions had been held with the Licensee following an application to extend the hours of operation. The discussions were as a result of a number of alcohol related incidents in the area and objections to the variation of the licence. The application was subsequently withdrawn.

In response to questions from the Panel and the Council's legal officer the representative of WYP confirmed that:

- Test purchasers were volunteers, aged between 13 and 17, who were selected because they looked young. They were advised not to dress older than their age and that the girls must not wear make up or false tan. If they arrived for an operation and the police felt they looked older than their age the operation would be cancelled.

- Briefings were conducted prior to test purchases where the volunteers were told that if questioned they must not lie about their age and explain that they did not possess any identification. Test purchases were accompanied by a plain clothes officer whose role was to observe the operation and ensure the safety of the volunteers.
- Following observation of a purchase the plain clothes officers would advise the Police Licensing Officer, waiting nearby, would remain on the premises until the licensing officer arrived to deal with the incident and record details in a pocket notebook very shortly afterwards.
- The problems in the area prior to the failure of test purchases had been identified following intelligence about a number of underage/proxy sales; a large number of street drinkers purchasing alcohol whilst under the influence of drink and reports that the store had sold alcohol (cider) by the cup.

The conditions on the licence prior to the October 2011 were questioned and reported.

The Licensee's representative addressed the meeting as follows:-

The licensee did not have a good command of the English language. He had suffered a previous bad experience with the police and had not provided a clear statement of the events which had occurred at the premises as he was scared to do so.

The sales to underage test purchasers were not denied. The licensee and the sales assistant who had made the failed test purchases were aware of their responsibility and had attempted to prevent underage sales. They were not ignoring policy but found it difficult to judge the age of customers. They questioned customers if they appeared to be under 18 on average five to ten times per day. Of the two test purchasers attempted in the store one had been refused a sale. It was believed, incorrectly, that the other purchase had been made by a person over 18 years of age. The sales assistant who had made those sales also had a poor command of the English language.

In response to questions the licensee and his representative confirmed the following:-

- The sales assistant had been unable to get a proper look at the purchaser who approached him, and he had quickly put money on the counter and left. The shop was very busy at that time.
- The store did not keep a refusal log but would do so in the future.
- Staffing training would be undertaken and there would be no repeat of the incidents.
- Following the first incident the licensee had spoken to staff about their responsibility to challenge people attempting to buy alcohol if they believed them to be under 18 years of age.
- Staff would be more vigilant in the future.
- The representative of WYP explained that her interview with the licensee had been undertaken without a solicitor or interpreter present. The licensee had been given the opportunity for assistance but confirmed he understood the proceedings and did not require support.



In summation the representative of WYP reported her view that the licensee had not acknowledged the problems occurring at the premises and had blamed problems encountered in the area on other licensed premises. The licensee had refused when requested to cease selling a particular brand of cider and it was believed that he had a lack of understanding about his responsibilities. The Designated Premises Supervisor had been away from the premises when both test purchases had failed and it would have been expected that, on a busy Friday evening, the DPS would have been on the premises. A Personal Licence Holder had not been on the premises at those times either. Government Guidance on the Review Process was referred to and Members were asked to consider revocation of the Premises Licence. If the licence was not to be revoked a condition that a personal licence holder must be on the premises at all times licensable activities were taking place and the installation of CCTV cameras should be stipulated.

The representative of the licensee, in summary, explained that he was unaware of the issues in the vicinity of the premises which the police had referred to. He had spoken to the licensee and his staff who were aware of they must improve their vigilance and undertake training in licensing law. It was stressed that they did challenge customers they believed to be under age and that challenges were occurring five to ten times per day.

#### **Decision –**

**That having considered all valid representations made by parties to the hearing; valid representations made during the statutory period, the published statement of licensing policy and relevant statutory guidance, the Panel revokes the premises licence.**

**Reason: In the light of compelling evidence from the Police of persistent problems of sales of alcohol to under 18 year olds at the premises, and as the panel is not confident that the premises holder has shown that adequate steps would be taken to ensure future compliance with the Licensing Act 2003, or relevant conditions of the licence, revocation of the licence is considered justified and appropriate in the interests of promotion of the licensing objectives – Protection of children from harm objective.**

(Melanie McGurk – 01274 431873)

Chair

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