

Licensing Sub-Committee

Meeting held 25 January 2016

PRESENT: Councillors Geoff Smith (Chair), Denise Reaney and Zoe Sykes

.....

1. APOLOGIES FOR ABSENCE

1.1 No apologies for absence were received. Councillor Jack Clarkson attended the meeting as a reserve Member, but was not required to stay.

2. EXCLUSION OF PUBLIC AND PRESS

2.1 No items were identified where resolutions may be moved to exclude the public and press.

3. DECLARATIONS OF INTEREST

3.1 There were no declarations of interest.

4. LICENSING ACT 2003 - PREMIER STORES, 28-30 BALLIFIELD DRIVE, SHEFFIELD, S13 9HS

4.1 The Chief Licensing Officer submitted a report to consider an application made by South Yorkshire Police, under Section 51 of the Licensing Act 2003, for a review of the Premises Licence in respect of the premises known as Premier Stores, 28-30 Ballifield Drive, Sheffield, S13 9HS.

4.2 Present at the meeting were Inspector Jason Booth, Benita Mumby and Cheryl Topham (South Yorkshire Police, Applicants), Julie Hague (Sheffield Safeguarding Children Board), Hardeep Matto (Premises Licence Holder), Jugdeep Singh (Designated Premises Supervisor), Jayne Gough and Shelley Marshall (Licensing Enforcement and Technical Officers), Marie-Claire Frankie (Solicitor to the Sub-Committee) and John Turner (Democratic Services).

4.3 Marie-Claire Frankie outlined the procedure which would be followed during the hearing.

4.4 Jayne Gough presented the report to the Sub-Committee and it was noted that representations had been received from the Sheffield Safeguarding Children Board (SSCB), and were attached at Appendix 'B' to the report. Ms Gough also made reference to additional evidence provided by Cheryl Topham, which had been circulated prior to the meeting.

4.5 Cheryl Topham, on behalf of South Yorkshire Police, stated that the review had been prompted by three failed test purchases in a 12-month period from 27th November 2014 to 4th November 2015. Whilst the police acknowledged that staff at the store had passed three test purchases in the same period, based on the

results of the test purchases undertaken, it meant that a young person could go into the shop and had a 50% chance of being served with alcohol. In addition to this, two of the failed test purchases had been made by the same shop assistant. During the period in question, there had also been visits made by the police and the SSCB, to give advice to the Designated Premises Supervisor (DPS), in order to improve the situation. The DPS had also sent several members of staff on training courses to improve their knowledge, and one staff member still sold to an under-aged person after the training. Ms Topham stated that the police also had concerns that one of the conditions of the Premises Licence was being breached, namely Condition 9 – ‘The holder of a Personal Licence to remain on the premises at all times that the premises are open and alcohol sold’. When visiting the premises on 7th January 2016, the DPS informed Ms Topham that the Personal Licence Holder was not present at the premises all the time, therefore this condition was not being met. It was appreciated that this may prove difficult due to the long hours the store was open, and when alcohol was being sold, and the police had therefore suggested that there was either a need for more Personal Licence Holders or a reduction in the number of hours in terms of the sale of alcohol. Ms Topham concluded by stating that in order to comply with the licensing objectives, in particular the protection of children from harm, and the Premises Licence Holder’s licence conditions, the shop needed to tighten its operations.

- 4.6 In response to questions from Members of, and the Solicitor to, the Sub-Committee, and the Premises Licence Holder, Ms Topham stated that, in terms of the test purchases, it appeared as though the management would take action and listen to advice after a failed test then, after a period of time, standards would slip again. It was believed that the condition requiring the holder of a Personal Licence to remain on the premises at all times that the premises were open and alcohol sold, had been put on the Premises Licence due to the fact that the store was located very close to a secondary school. It was considered that having a Personal Licence Holder present at all times would provide extra security and support for the shop assistants, particularly if they were faced with any trouble. Whilst the police did not consider that all public nuisance in the area was caused by young people hanging around the store, there were concerns that if the young people were able to purchase alcohol themselves, or get someone else to buy it for them, this would increase the potential for public nuisance. It was pointed out that, when the police and Julie Hague visited the store, on 7th January, 2016, there were approximately 30 young people hanging around outside which, whilst they were not causing any trouble, appeared quite intimidating. During school term-time, the management operated a system whereby only two school-children were allowed in the shop at any one time and, instead of them having to queue at the counter with regular customers, a member of staff would stand by the door, with a float in a tin, and the children would pay the staff member for the goods purchased when leaving the shop. This system meant the children would be in and out of the shop much quicker, and was only generally used on school days, and when low-priced goods were being purchased. It was confirmed that following the attendance of a number of members of staff from the shop at a multi-agency training course, led by Julie Hague, SSCB, on 14th October 2015, the store failed a test purchase shortly after this, on 4th November 2015. The test purchases undertaken at the store were carried out as part of a routine check, as had been carried out at a number of other licensed premises in the area, and not based on any evidence in terms of problems

at the store. The young people used by the police to carry out the test purchases were all volunteers and aged either 15 or 16, and whilst it was appreciated that they could look older than they were, it was unlikely that they would look older than 21. The police had suggested that management change from operating Challenge 21 to Challenge 25 as this was one of the management systems which could be changed, with relative ease, and which would enable the premises to remain open.

- 4.7 Julie Hague, representing the Sheffield Safeguarding Children Board (SSCB), stated that the Board's representations focused on the licensing objective – the protection of children from harm. The main reason for the representations was that the premises had been evidenced to operate in a way that had put children at risk, and undermined the core objective for the protection of children from harm. Ms Hague stated that the evidence submitted by South Yorkshire Police demonstrated that alcohol had been sold to children at the premises on three occasions within a 12-month period, and that the Board took a serious view on this. The Board routinely offered training sessions to people in the licensed trade to ensure that they were fully aware of the risks associated with underage sales and that Designated Premises Supervisors (DPSs), licence holders and their staff were able to manage risk for the prevention of harm to children. In November 2014, the Board was informed by the police that the premises had failed a test purchase operation, resulting in a 15-year old child buying lager from the store. In response, free training places were offered to the licence holder, which resulted in two members of staff attending the training on 4th February 2015. In March 2015, the Board was again notified by the police that another 15-year old child had been able to buy alcohol during a test purchase operation at the shop. Again, this resulted in the Board offering further free training places. However, no staff from the store attended the training that took place on 15th April 2015. In September 2015, the licence holder, Mr Hardeep Singh Matto, contacted the Board, requesting seven places on the next available training course. These were provided, and on 14th October 2015, six members of staff attended the training. The training provided in response to failed test purchase operations or other complaints was a strategy agreed by the police, the SSCB and Trading Standards, the aim of which was to engage retailers in partnership to support them to improve their operation to make it safe and compliant with the law. The training provided information about the law in relation to children and alcohol, how an operator could prevent underage sales and on the impact of underage drinking on children, young people and the local community.
- 4.8 Ms Hague stated that it was with some disappointment therefore, that despite Mr Matto's apparent willingness to send staff on the training course, there was evidence of a 'hit and miss' trend in the enforcement of the due diligence systems to prevent underage sales. On 7th November 2015, the Board was notified by the police that a 15 year old child had bought alcohol from the premises during a test purchase operation undertaken on 4th November 2015. She stated that, although the Board had been working with Mr Matto since 2012, and that he had always been positive and approachable, there were still serious concerns in terms of the management systems operating at the store. Ms Hague made specific reference to an unannounced visit she had made to the store, with the police, on 7th January 2016, where they saw around 30 school children outside the shop, and indicated that the shop obviously attracted high numbers of young people, therefore it would

be expected that the management would impose stricter controls. Ms Hague concluded by stating that the Board considered that management could have done more, such as undertaking volunteer test purchases, in order to address the problems.

- 4.9 In response to questions from Members of, and the Solicitor to, the Sub-Committee, Julie Hague stated that it would be a simple operation for the management to change from Challenge 21 to Challenge 25, and that the Board would assist them, by providing advice and material and posters. Whilst the Board and the police appreciated the reasons as to why the store only allowed two school children in the shop at any one time and why the school children paid for their goods, by handing their money to a shop assistant, who put it in a tin, as opposed to putting it through the till, they were not sure as to whether this constituted an offence, and stated that they considered that Trading Standards may have concerns as to this practice. Whilst it was accepted that the store maintained a refusals log, and that it was being completed satisfactorily, there had been no detailed analysis of its contents. The Board had only been aware of the fact that a holder of a Personal Licence had not been present at the premises at all times they were open and when alcohol was being sold following the visit on 7th January 2016. On this occasion, the DPS was present, and was advised that it may help if more members of staff were trained up to become Personal Licence Holders. The three passes in terms of the test purchases took place during early evening.
- 4.10 Hardeep Matto and Jugdeep Singh put forward the case on behalf of the store, indicating that it was a convenience store, and well used by the local community and children from the nearby school. It was reported that there had been problems in the past with young people hanging around outside the store but, following the work of the management, in conjunction with the police, there were now little or no problem in terms of public nuisance. It was accepted that a lot of school children visited and sometimes hung around outside, after leaving school, but they soon moved on. They stressed that, as well as the failed test purchases, there had also been three passes during the 12-month period, and that the member of staff who had failed two of the test purchases had subsequently been dismissed as a result of her actions. It was pointed out that the holder of a Personal Licence was present on the premises for the majority of the time the shop was open, and alcohol was being sold, but that he was sometimes forced to leave the premises. As there was only one holder of a Personal Licence, they stated that they would ensure that more members of staff should attend the training to gain a Personal Licence. Mr Matto concluded by stating that whilst they accept that they had made some mistakes, they were always willing to co-operate with the SSCB and the police and listen to their advice.
- 4.11 In response to questions from Members of, and the Solicitor to, the Sub-Committee, Jayne Gough and Cheryl Topham, Mr Matto explained that he did not think to question the meaning behind the condition requiring there to be a DPS on site at all times, as this condition was added at a previous meeting of the Licensing sub-Committee, along with other conditions in Annex 3 of the Premises Licence. He stated that he had been advised by the police that he could complete an Authorisation List, ensuring all staff sign it to enable them to sell alcohol in the absence of the PLH, and assumed that this would be enough. Ms Gough also

highlighted issues identified on previous licensing visits, that highlighted the fact that the Authorisation List and refusals log had not been maintained and therefore, this requirement was still not being met. Mr Singh stated that he was also the DPS at his other premises, and split his time between both. The management planned to send a number of members of staff on the Personal Licence training course and, with regard to the suggested change from Challenge 21 to Challenge 25, whilst the staff had been informed of the proposed change, they had not yet got all the relevant material and posters. The other member of staff who failed a test purchase had received appropriate training, and had subsequently passed a test purchase. In addition to the Premises Licence Holder and the DPS, there were six other members of staff, who all worked part-time, and who were allocated shifts at different times of the day and night. There was no condition on the Premises Licence in respect of Mr Matto's other store requiring a holder of a Personal Licence to remain on the premises at all times that they were open, and alcohol sold. Either Mr Matto or Mr Singh were on the premises at all times the shop was open, with each doing one shift from 6.00 am to 2.00 pm and 2.00 pm to 10.00 pm. If one of them was on holiday, or ill for a period of time, the other one would fill in and, if for some reason one of them had to leave the store, they would either go during a quiet period during the day or send another member of staff. Jayne Gough confirmed that they shouldn't have to wait any more than two months until there was a Personal Licence Holder training course. It was accepted by management that they would have received a Determination Notice following the hearing of the Licensing Sub-Committee on 3rd November 2009, which considered a variation of the Premises Licence, specifically setting out conditions regarding the requirement for a holder of a Personal Licence to be present on the premises the age verification scheme, but they did not have a full understanding of all the conditions at that time, and they only became clear following subsequent meetings with Licensing staff. The member of staff who failed two test purchases was dismissed shortly after Julie Hague and the police had visited the premises on 7th January 2016. The till prompt in respect of the Challenge 21 scheme simply indicated 'check ID'.

- 4.12 Cheryl Topham and Julie Hague provided brief summaries of their case and Hardeep Matto indicated that he had nothing further to add.
- 4.13 RESOLVED: That the public and press and attendees involved in the application be excluded from the meeting before further discussion takes place on the grounds that, in view of the nature of the business to be transacted, if those persons were present, there would be a disclosure to them of exempt information as described in paragraph 5 of Schedule 12A to the Local Government Act 1972, as amended.
- 4.14 Marie-Claire Frankie reported orally, giving legal advice on various aspects of the application.
- 4.15 At this stage in the proceedings, the meeting was re-opened to the public and press and attendees.
- 4.16 RESOLVED: That, in the light of the information contained in the report now submitted, the additional information now circulated and the representations now made, the Sub-Committee agrees to modify the conditions of the Premises

Licence, in respect of the premises known as Premier Stores, 28-30 Ballifield Road, Sheffield, S13 9HS, as follows:-

- (a) the removal of No. 6;
- (b) the removal of Nos. 7 and 8, and replaced by a new No. 6, as follows – ‘The Challenge 25 Proof of Age Scheme promoted by the Government must be operated at all times at the premises and must include the use of a refusals log’;
- (c) the addition of a new No. 7, as follows – “All staff to receive training on underage and proxy sales, with the training to be in a written format, and to the satisfaction of the Sheffield Safeguarding Children Board, with induction training to be provided for all new staff and monthly refresher training for existing staff, and that written records, to be signed and dated by all staff undertaking the training, are to be maintained and made available for inspection to officers on request’; and
- (d) No. 10 – to be renumbered No. 8 – be amended by the removal of all the words after ‘installed’.

(The full reasons for the Sub-Committee’s decision will be included in the written Notice of Determination.)