

## **MEETING OF THE LICENSING SUB-COMMITTEE**

**held 13<sup>th</sup> September 2012**

**PRESENT:** Councillors John Robson (Chair), Jillian Creasy  
and George Lindars-Hammond

### **1. WELCOME AND HOUSEKEEPING ARRANGEMENTS**

1.1 The Chair welcomed attendees to the meeting and outlined basic housekeeping and fire safety arrangements.

### **2. APOLOGIES FOR ABSENCE**

2.1 No apologies for absence were received. Councillor Geoff Smith attended the meeting as a reserve Member, but was not required to stay.

### **3. EXCLUSION OF THE PUBLIC AND PRESS**

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

### **4. DECLARATIONS OF INTEREST**

4.1 There were no declarations of interest.

### **5. LICENSING ACT 2003 – MOSBOROUGH OFF LICENCE, 56 HIGH STREET, SHEFFIELD, S20 5AE**

5.1 The Chief Licensing Officer submitted a report to consider an application by South Yorkshire Police for the review of a Premises Licence, made under Section 51 of the Licensing Act 2003, in respect of the premises known as Mosborough Off Licence, 56 High Street, Sheffield, S20 5AE.

5.2 Present at the meeting were Inspector Jason Booth and Lizzie Payne (South Yorkshire Police, for the Applicants), Julie Hague (Sheffield Safeguarding Children Board), Richard Martin (Joint Premises Licence Holder), Peter Thompson (Joint Premises Licence Holder and Designated Premises Supervisor), Andy Ruston (Licensing Officer), Marie-Claire Frankie (Solicitor to the Sub-Committee) and John Turner (Democratic Services).

5.3 The Solicitor to the Sub-Committee outlined the procedure which would be followed during the hearing.

5.4 Andy Ruston presented the report to the Sub-Committee and it was noted that representations had been received from the Sheffield Safeguarding

Children Board and were attached at Appendix 'C' to the report.

- 5.5 Inspector Jason Booth, Safer Neighbourhood Inspector for the South East area of the City, stated that during the past few years, there had been a disproportionate amount of anti-social behaviour (ASB) in this area of the City. Part of his role in the prevention of ASB was monitoring levels of underage drinking and carrying out test purchases at off licences and other licensed premises in the area. The first test purchase had been carried out at the premises on 25<sup>th</sup> May 2011, which involved a bottle of lager being sold to a police volunteer, aged 15 years old, which had resulted in the issue of a Fixed Penalty Notice. Four consequent test purchases were undertaken, which were all passed. A further test purchase was carried out 16<sup>th</sup> November 2011, which resulted in a bottle of wine being sold to a female police volunteer, aged 15 years old, which again, resulted in the issue of a Fixed Penalty Notice of £80. Police Licensing Officers visited the premises on 22<sup>nd</sup> November 2011, and discussed the issues following the failed test purchase on 16<sup>th</sup> November 2011. Information relating to Safeguarding Children, Trading Standards and potential Police action was passed to the member of staff. A letter was also sent to Mr Thompson, Designated Premises Supervisor, informing him of the visit and the information passed on, with a request that it be circulated to all members of staff working at the premises. Following a test purchase that was passed on 23<sup>rd</sup> March 2012, a further test purchase on 30<sup>th</sup> May 2012 was failed, which involved the sale of a bottle of cider to a male volunteer, aged 16. Again, a Fixed Penalty Notice of £80 was issued. Following a misunderstanding on 20<sup>th</sup> June 2012, when Lizzie Payne and Julie Hague attended the premises with the aim of meeting with Mr Martin and Mr Thompson, a further meeting was arranged at the premises on 25<sup>th</sup> June 2012. The test purchase failures were discussed and offers were made in terms of providing further support, training advice and guidance. On 23<sup>rd</sup> June 2012, the premises failed a further test purchase when a bottle of cider was sold to two volunteers, aged 16 and 17, by Richard Martin, Premises Licence Holder. A Fixed Penalty Notice of £80 was issued to Mr Martin and he was offered the opportunity to attend the Fixed Penalty Notice Waiver Training Course. On 25<sup>th</sup> June 2012, Lizzie Payne and Julie Hague visited the premises again to meet with Mr Martin and Mr Thompson to discuss the test purchase failures and to inform them that an application for a review of the Premises Licence would be submitted by South Yorkshire Police, as well as the fact that they would also be looking to serve a Voluntary Closure Notice. Further advice in terms of training records, the checking of ID, Refusals Logs and the use of signage in the premises was provided. An offer of two places on the Multi-Agency Training Course was also made and a duplicate training pack, similar to the one left at the premises on a previous occasion, was left. On 27<sup>th</sup> June 2012, a Voluntary Closure Notice for a period of 96 hours (08:00 hours 13<sup>th</sup> July to 22:30 hours 15<sup>th</sup> July 2012) was served on the premises and written acceptance of the closure was received by e-mail on 1<sup>st</sup> July 2012. The closure was adhered to. Inspector Booth stated that in view of the failed test purchases and the discussions held at the meetings with Mr Martin

and Mr Thompson, it was believed that there was no regular system of age related checks or challenge, thereby leading to a presumption that alcohol was regularly traded to persons underage with little or no regard to the law or the licensing objectives. The concerns were further compounded when the premises failed a further test purchase, despite the fact that intervention had been made by the Police, Sheffield Children's Safeguarding Board and Trading Standards.

5.6 In response to questions from Members of the Sub-Committee, it was stated that generally, the Police would seek a review of a Premises Licence if there had been three failed test purchases during a period of 12 months. The Police and other responsible authorities would also work with the premises in an attempt to resolve any problems. In the light of the fact that the majority of ASB in the area over the last few years had been committed by young people, the Police had a very tough approach in terms of under-aged drinking and carried out regular test purchases at off licences and other licensed premises. Whilst it was not possible to confirm that the ASB had been caused as a direct result of young people purchasing alcohol from the premises, the Police were convinced that the actions of young people who had purchased alcohol from the premises had contributed to the ASB in the area. The Police ensured that the volunteers used for the test purchases acted as natural as possible as it was not a case of trying to catch the management of the premises out. Further to the guidance in terms of applicants requesting reviews of Premises Licences, the Police confirmed that such decisions were taken as a last resort, with a number of attempts made beforehand to ensure the appropriate measures were in place. The Police were not aware that, under current Government proposals, two test purchase failures could trigger a review in the future.

5.7 Julie Hague stated that she had been working with the management of the premises since June 2011, but despite all the assistance and support provided, there was still evidence to show that they were not able to implement robust prevention measures in terms of underage sales. She stated that there were no safe limits in terms of the consumption of alcohol by young people as they tend not to understand the harmful effects it can have, both on their physical and mental wellbeing. It can affect their performance at school, general welfare and judgment, and act as a stimulus in terms of sexual activity and ASB. The management of the premises had reacted positively to the Sheffield Children Safeguarding Board's recommendations in that a number of staff had been booked on relevant training courses and they were now using a Refusals Log. However, following the meeting held with the management at the premises on 25<sup>th</sup> June 2012, it was apparent that staff training and knowledge tests had still not been completed and that the need for more effective staff training had been identified by the Board, the Police and the Local Authority. Although the management had the relevant software to utilise till prompts, they were not in use at the time of the test purchases and a relevant Children and Young People Risk Assessment had not been completed. Although the management were aware of the

need for action to be taken, such action had not been undertaken effectively. Ms Hague concluded by confirming that, more recently, more staff at the premises had been booked on relevant training courses.

- 5.8 In response to a question from a Member of the Sub-Committee, Julie Hague stated that in terms of the Sub-Committee implementing conditions on the Premises Licence, she would like to see Challenge 25 implemented, staff training records being completed and maintained, a Premises Licence Holder being on duty at the premises at all times, a member of staff attending the Safeguarding Children training course, a Refusals Log being completed and maintained, the specification of the CCTV being to the satisfaction of the Police and till prompts being installed and operational on all tills.
- 5.9 Richard Martin stated that both he and Mr Thompson had other business interests, in addition to the off licence. He accepted that they had not undertaken sufficient work in terms of implementing procedures with regard to staff management and at the time of the failed test purchases, there were new members of staff working there, who had not received sufficient training. Mr Martin promised to ensure that attendance on the relevant training courses was a requirement and not voluntary as it had been in the past. He also confirmed that they would undertake refresher training for staff every six months. The till prompts were now in operation, the Refusals Log was now being completed and a risk assessment of the premises had been undertaken. Although he and Mr Thompson had other business interests, they both worked very close to the premises, and one of them was always available if there were any problems. Neither of them would leave the area unless the other was around. There were five members of staff, who worked a mixture of full and part-time, with two of them having completed the multi-agency training and a further two booked on the course in October 2012. Mr Martin confirmed that he had attended the multi-agency training course and had completed it successfully. He also confirmed that they had abided by the Voluntary Closure Notice served by the Police. If there were any young people causing trouble outside the premises, or were suspected of asking older people to purchase cigarettes or alcohol for them, they would challenge them and keep records of any action taken in the Control Log. Peter Thompson added that, in his role as landlord of the Queen Hotel for the last 19 years, he took the issue of underage drinking very seriously and had not experienced any problems of this at his pub in the last 19 years.
- 5.10 In response to questions from Members of, and the Solicitor to, the Sub-Committee, Mr Martin confirmed that he would be happy to keep CCTV images for a period of 28 days, in line with Police requirements. If a member of staff was involved in a failed test purchase, instead of sacking them, they would send them on a training course to enable them to broaden their knowledge in terms of dealing with underage sales. In terms of the suggestions of one of the managers being on the premises at all times, this had not been deemed necessary as between 12 noon

and 6.00 pm Monday to Thursday, the shop was very quiet. It was only busy during the evenings on Friday, Saturday and Sunday. Mr Martin accepted that the quality of staff training, prior to members of staff attending the multi-agency training courses, had not been satisfactory, but had simply comprised basic in-house training, where information was passed verbally to members of staff. More time was now spent with each member of staff and new staff were shadowed by more senior members during their induction period. Mr Martin accepted that there was a big gap in quality between the in-house training and the multi-agency training course. He stated that he was serving when the test purchase was held on 23<sup>rd</sup> June 2012. Although he had completed the multi-agency training course in February 2012, the till prompts were not operational at this time. In terms of the operation of the till prompts, when certain products were rung through the till, such as cigarettes and alcohol, the screen would show a message reminding the member of staff to check if the customer was 18 or over and only when the member of staff was satisfied that they were over 18, seeking relevant proof if necessary, would they press either yes or no on the screen. If the member of staff did not think the customer was over 18, and the customer was unable to provide sufficient proof, they would refuse the sale and record the details in the Refusals Log. Mr Martin stated that no-one attended the free multi-agency training on 20<sup>th</sup> July 2011, offered by the Safeguarding Children Board, as there was a regular member of staff in place at the time, who regularly worked long hours in the shop and therefore, the management did not feel there was a need for such training at this time. In terms of the failed test purchase when Mr Martin was serving, he stated that he was programming cigarettes into the till at the time when several people entered the shop and as he felt rushed, and on the basis that the till prompts were not in operation at the time, he failed to undertake the necessary checks in terms of the customer's age, and allowed the sale to go through. He promised that this would not happen again as the till prompts were now in operation, and he had met with all members of staff to discuss the serious nature of the situation and had taken the staff through the training manuals. He confirmed that Challenge 25 was in operation on the premises. If two customers purchasing either cigarettes or alcohol approached the till together, and one appeared to be underage, staff would challenge them and ask them who the goods were for. Whilst there had not been many instances where people had tried to use fake ID, staff would retain such ID if it was found to be fake. The ID requested was that as listed under the Challenge 25 rules. All members of staff had the ability to log on to the tills and the Refusals Log was kept up to date, which was used to monitor which staff have refused sales. Whilst such information was not recorded electronically, the management would look to develop this. Mr Martin confirmed that he and Mr Thompson had only received training in terms of the use of the old-style tills and stated that the till prompts had been installed on the tills when they had received them in December 2011, but had not been operational until recently.

- 5.11 RESOLVED: That the public and press and attendees involved in the application for review of the licence 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.

5.12 The Solicitor to the Sub-Committee reported orally, giving legal advice on various aspects of the application.

5.13 At this stage in the proceedings, the meeting was re-opened to the public and press and attendees.

5.14 RESOLVED: That the Sub-Committee agrees to modify the conditions of the Premises Licence in respect of the premises known as Mosborough Off Licence, 56 High Street, Sheffield S20 5AE, as follows:-

- (a) Challenge 25 will be in operation at the premises;
- (b) Refresher training will be given to staff every six months and records of the training will be signed by staff;
- (c) Refusal logs will be kept for six months and made available to officers to officers from South Yorkshire Police, authorised officers from the responsible authorities and the Licensing Service, Sheffield City Council:
- (d) A person who has attended the Sheffield Safeguarding Multi-Agency training course to be on the premises at all times alcohol is for sale;
- (e) Till prompts in relation to age verification will be used at all times; and
- (f) A colour CCTV system to the specification of South Yorkshire Police will be fitted, maintained and in use at all times whilst the premises are open. The CCTV images will be stored for 31 days and police and authorised officers of the Council will be given access to images for purposes in connection with the prevention and detection of crime and disorder. Members of the management team will be trained in the use of the system. A copy of the specification dated January 2010 will be available at all times for inspection by the Police and authorised officers.

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