

Licensing Sub Committee

A meeting of Licensing Sub Committee was held on Monday, 11th August, 2008.

Present: Cllr Bill Woodhead, Cllr Fred Salt, Cllr Tina Large

Officers: M Vaines, J Allwood (DNS) J Nertney (LD)

Also in attendance: PC Icton

Respondent: Mrs Alison Morgan, on behalf of Hide Bars Limited the Premises Licence Holder, Mr Adrian Rummell Designated Premises Supervisor (represented by Mrs Sarah Smith, Solicitor). Evidence was also called from Mrs Morag Horn, Operations Manager for Hide Bars Limited.

Apologies:

**LSC
22/08** **Appointment of Chairman**

RESOLVED that Councillor Woodhead be appointed Chairman for this meeting only.

**LSC
23/08** **Declarations of Interest**

No interests were declared.

**LSC
24/08** **Hide Café Bar and Tannery Grill, Fairfax Court, Yarm, Stockton-on-Tees
Application for Review of a Premise Licence under the Licensing Act 2003**

The Chair introduced all persons who were present and explained the procedure to be followed during the hearing.

A copy of the report and witness statements had been provided to all those persons present and to members of the Committee. Members noted that this was a review of the premises licence made at the request of the Cleveland Police and supported by representations from the Councils Trading Standards Section and Local Safeguarding Children Board.

Miss Smith on behalf of Cleveland Police explained that the application for a review of the premises licence had been made following two under age sales at the premise following test purchase operations. Test purchases on 20th February and 28th May 2008 had resulted in sales of alcohol to persons under the age of 18 years. On 20th February two test purchasers aged 14 and 15 had been served with two bottles of Smirnoff Ice and on 28th May two 15 year olds had been served with two bottles of Smirnoff Ice. Following the first under age sale a warning letter was sent to the Premises Licence Holder and Designated Premises Supervisor (DPS) on 7th March 2008. It was confirmed that the two FPN's issued against the members of staff had been paid. It was a cause for concern that members of staff at the premise did not appear to know who the DPS was. After the second test purchase it appeared that there was no DPS in place at the premise as she had been suspended pending a disciplinary investigation by the premise licence holder.

PC Icton gave evidence on behalf of the Police and was cross-examined by Miss Smith, Solicitor for the premises licence holder, the respondent in this

matter.

Miss Allwood, on behalf of Trading Standards, stated that they supported the review application.

The Committee had regard and noted the representation made on behalf of the Local Safeguarding Children Board which supported the Polices application for a review of the premises licence.

Miss Smith called evidence from Mrs Morgan, the Managing Director of Hide Bars Limited, the Premises Licence Holder. Mr Rummell the Designated Premises Supervisor and Mrs Morag Horn, Operations Manager, were also in attendance and gave evidence.

Miss Smith advised the Committee that they had to consider whether the licensing objectives were been undermined or whether the improvements that had been introduced at the premise were sufficient to satisfy the Committee.

Mrs Morgan stated that they had introduced the new stringent procedures across all premises within the company and now operated a Challenge 25 policy. Mrs Morgan stated that they had always had a good relationship with the Police and were devastated that they were before the Committee. The Committee were provided with copies of e-mails from Police Officers in Durham, Northumbria and North Yorkshire confirming that they had no problems with the Hide premises in their areas. It appeared that the Yarm premise was the only location which had a problem.

Miss Smith, on behalf of the Police cross examined Mrs Morgan and the other witnesses

In considering their decision Members had regard to the evidence which had been presented to them in both written and oral form from the witnesses and representatives. The Committee also had regard to the statutory guidance issued under Section 182 of the Licensing Act 2003 and the Council's Licensing Policy.

It was clear that the Premises Licence Holder had introduced a number of procedures and had documentation showing due diligence. It was of some concern to the Committee that these measures had been reactive rather than proactive. However the Premises Licence Holder was given credit for taking steps to ensure that further under age sales did not occur. It remained to be seen whether these procedures would be successful and if they were not then the Police would no doubt bring a further review application.

Members gave consideration to whether the DPS should be removed. Members agreed that this would not be appropriate in these circumstances given that the current DPS was not in post when the underage sales had taken place. Mr Rummell, the current DPS, had been put in place to effect change and improvements the systems and practices at the premise. The DPS should be in no doubt that the Committee and for that matter all responsible authorities would expect him to maintain his diligent approach and continue to train the staff to ensure that all the training was embedded and that further under age sales did not occur. Should the DPS change then the Premises Licence Holder

would ensure that any new DPS was informed of the previous history at the premise and that a copy of the decision letter was brought to their attention.

Although Members did not feel removal of the DPS was appropriate at this time, they were conscious that this was an extremely serious matter and they gave serious consideration to the revocation of the premises licence. Two under age sales at an individual premise could, in the Committees view, reasonably lead to the revocation of a premises licence. However in balance and considering all the evidence Members did not feel it would be appropriate to revoke the licence at this time. The Premises Licence Holder was given credit for taking this issue seriously and introducing improvements to their training regime and agreeing to accept further conditions been attached to the licence.

Members were aware that they had the power to suspend for a period of up to three months. It was therefore felt appropriate that a short suspension of 14 days in relation to the supply of alcohol on and off the premises was proportionate and would serve to demonstrate that this was a serious matter and that it should serve as a deterrent to other premises. Members balanced their decision to suspend the supply of alcohol against the potential financial impact for the premises licence holder. A 14 day suspension was deemed to be proportionate given that this matter was deemed very serious and Members could have suspended for up to three months. Members also felt that the business was very successful with a high turnover and was part of a chain of Hide branded premises within the company structure. The Committee felt that a 14 day suspension would not be fatal to the premise or the company. Members agreed that this was proportionate as the premise could if they so wished continue to operate the remainder of their business but without the supply of alcohol.

RESOLVED that:-

- The licensable activity of the supply of alcohol for consumption on and off the premises shall be suspended for a period of 14 days.
- In addition the Committee resolved that the following conditions should be attached to the licence:-
 1. A Challenge 25 Policy be implemented forthwith with all staff insisting on evidence of age from any person appearing to be under 25 years of age and who was attempting to buy alcohol or other age restricted products.
 2. All staff be trained with regard to the law relating to the sale of age restricted products. Staff be retrained every three months.
 3. Training records, signed by both the staff member and the Designated Premises Supervisor/Business Owner be retained for future reference and be updated at least every three months. All staff training records be made available to enforcement agencies and/or responsible authorities on request.
 4. The business maintain a refusals book to record all instances where the sale of age restricted products had been refused. This shall include the date

and time of the attempted sale, together with a description of the incident, the Designated Premises Supervisor/Business Owner would check and sign each page and the refusals book would be made available to enforcement agencies and/or responsible authorities on request.

5. CCTV recordings be maintained for a period of 30 days and be made available to enforcement agencies and/or responsible authorities on request.

6. CCTV equipment be maintained in good working order in accordance with the manufacturer's instruction.

7. At all times when the premises were open to the public for any licensable activity there be sufficient competent staff on duty for the purpose of fulfilling the terms and conditions of the licence in preventing the undermining of the Licensing Objectives under the Licensing Act 2003.

8. There shall be sufficient public notices erected at the premises to ensure that customers and staff were aware that the premise is operating a Challenge 25 policy.

9. The premise shall employ a minimum of two SIA registered door staff on a Sunday and Tuesday and three SIA registered door staff on a Friday and Saturday. The door staff shall be employed and working at the premise from 19:00 hours till the premises closes.