

## Licensing Sub Committee

A meeting of Licensing Sub Committee was held on Friday, 1st April, 2011.

**Present:** Cllr Dick Cains, Cllr Alan Lewis and Cllr Bill Woodhead.

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

**Also in attendance:** Cleveland Police – PC Icton in attendance (represented by Mrs Nevison, Solicitor); Mr Shaikbzini (represented by Mr Hodgson and Mr Lester from D & B Licensing Consultants).

**Apologies:** None.

### **LSC 62/10 Appointment of Chairman**

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

### **LSC 63/10 Declarations of Interest**

There were no interests declared.

### **LSC 64/10 Express Drinks, 14 Bowsfield Lane, Stockton on Tees - Application for a Review of a Premise Licence under the Licensing Act 2003**

The Chair introduced all person present and explained the procedure that would be followed.

A copy of the report and witness statements had been provided to all those persons present and to Members. Members noted that this review of a premises licence was made at the request of Cleveland Police. Representations in support of the review had also been submitted by Trading Standards who were both in support of the Polices review application.

Mrs Nevison on behalf of Cleveland Police stated that they were satisfied the licensing objectives were being undermined.

There had been two under age sales at the premises, one on 20th July 2010 and one on 27th January 2011 which was made by the premise licence holder.

Mr Shaikbzini misled the Police by informing them that the premise licence holder was a gentleman called Mr Sardar Abdullah.

Evidence was called from PC Icton. PC Icton confirmed that warning letters had been sent to the premises previously. Mr Shaikbzini was interviewed by the Police and prosecuted where he appeared before Teesside Magistrates Court.

Miss Allwood on behalf of Trading Standards confirmed that the trading standards section supported the Police application. Mrs Allwood confirmed that a copy of the Challenge 21 training pack had been delivered to the premise by hand on 6th April 2010.

Mr Hodgson on behalf of the premise licence holder stated that his consultancy form D & B licensing consultants had been appointed by Mr Shaikbzini to

ensure that both he and the premise complied with their statutory obligations. Mr Hodgson and his partner were ex police officers with many years experience and the deliver training on due diligence for licensed premises.

Mr Hodgson stated that Mr Shaikbzini had several years experience and previously used to operate a licensed premise in Darlington which he sold in 2007. Mr Shaikbzini ran that premise with no issues.

Mr Hodgson confirmed that Mr Shaikbzini did not dispute the evidence of the two test purchases and accepted that the training of Mr Khafor was totally inadequate. However Mr Khafor was not an employee and was helping out in an unpaid capacity.

Mr Hodgson stated that the statements which Mr Shaikbzini made to the Police needed explaining. Mr Shaikbzini had been greatly effected by an incident at the premise when he had been stabbed in the stomach by a man who was aggrieved by the fact that his partner had been refused a sale.

Mr Sardar Abdullahs details were given as the premise licence holder as Mr Abdullah had agreed in principle to purchase the premise from Mr Shaikbzini.

Mr Hodgson stated that D & B licensing consultants were appointed by Mr Shaikbzini in March 2011. On 8th March 2011 Mr Shaikbzini and his brothers attended training and were subject to a test of their knowledge. Mr Hodgson provided Members with copies of their training records and a refusals register that had been introduced. Mr Hodgson stated that Mr Shaikbzini had agreed to receive refresher training every three months. Since the training had been carried out two test purchases had been carried out at the premise by D & B licensing consultants. Both of the test purchases by person aged 20 were refused.

Mr Shaikbzini was asked questions by the Polices representative and Members.

All parties were given an opportunity to sum up with Mr Shaikbzini's representative having the final submission.

In considering their decision Members had regard to the evidence which had been presented to them. Members also had regard to the statutory guidance issued under Section 182 of the Licensing Act 2003 and the Council's Licensing Policy.

It was noted that the evidence put before Members was based on the Crime and Disorder and Protection of Children from Harm licensing objectives.

It was clear that prior to the two test purchases the Premises Licence Holder had little or no due diligence in relation to the training of their staff and had substantial failings in relation to the promotion of the licensing objectives. It was clear that the licensing objectives had been undermined by the premises licence holder. The only defence submitted by the premises licence holder was one of ignorance and/or gross negligence.

Members did note that the premise licence holder had taken steps to introduce due diligence and improve the system at the premise and had appointed D & B

licensing consultants. Although this was commendable Members were minded to agree with the Polices submission that this was too little too late. Members were also concerned that the even though Mr Shaikbzini and his staff had been trained on 8th March they had not completed the refusals register correctly for the test purchases carried out by D & B licensing consultants. It was noted that Mr Shaikbzini had been advised by D & B licensing consultants that they would be undertaking test purchases at the premise and yet they had still failed to complete the refusals register correctly. This indicated either merely paying lip service to the training or a lack of understanding. Either way this was of concern to Members.

Members were greatly concerned by the fact that the premise had two under age sales. The warning after the first under age sale had not prompted the premise to take action. To further aggravate the circumstances the second under age sale was carried out by Mr Shaikbzini himself.

Members noted that the Premises Licence Holder had confirmed that he was willing to attach a number of conditions to the Licence which would assist in improving standards at the premise. In most cases this would be welcome and the suggested conditions were clearly good practice. However given that the Premises Licence Holder had shown little awareness of their responsibilities, and even though training had recently taken place, had still not complied with their obligations it was not deemed appropriate to deal with this review by the imposition of conditions.

Members also gave consideration to whether Mr Shaikbzini should be removed as the DPS. After considering all of the issues including the fact that Mr Shaikbzini was also the premise licence holder the Members felt that this was not a situation where the removal of the DPS would have a positive impact on the operation of the premise. Members noted in particular paragraph 11.20 and 11.21 of the Section 182 Statutory Guidance that "poor management is a direct reflection of poor company practice or policy and the mere removal of the Designated Premises Supervisor may be an inadequate response to the problems presented". The responsibility for the failings at the premise was mainly borne by the premises licence holder who had failed to ensure that the licensing objectives were not undermined.

Members felt that suspension was not appropriate given the wholesale failings at the premise and the fact that there had been two under age sales.

After giving consideration to all of the evidence both written and oral in this matter, the Committee therefore resolved that the licence should be revoked.

**RESOLVED** that the premise licence should be revoked.