

# NORTHAMPTON BOROUGH COUNCIL

## LICENSING SUB-COMMITTEE

**Tuesday, 18 January 2011**

**COUNCILLORS PRESENT:** Councillors Chaudhury and Varnsverry  
**COUNCILLOR APOLOGIES** Councillor Reeve  
**OFFICERS:** Phillip Bayliss (Principle Licensing Officer)  
Mohammed Rahman (NBC Solicitor)

**FOR THE APPLICANT:** Muthulingham Kokulathas (Applicant)  
John Birch (Licensing Consultant)  
Barry Henson

**FOR THE REPRESENTORS:** Ms Cann (Resident)  
Mrs Brain (Resident)  
Mr Green (Resident)  
Mrs Goodenough (Resident)  
Ms Hambridge (Resident)  
Mr Luke (Resident)

### **2. 23 CHARNWOOD COURT, NORTHAMPTON, NN3 3DX**

The Chair introduced the Sub-Committee and welcomed everyone to the meeting.

#### **Outline of the Application by the Licensing Officer**

The Licensing Officer outlined the application by Mr Kokolathas Muthulingham for a Premises Licence in respect of 23 Charnwood Avenue, Northampton. He also summarised the objections that had been received from residents of Charnwood Court and Charnwood Avenue. He then explained the procedure for the hearing.

#### **Application for the Review**

Representing the Applicant, Mr John Birch, Licensing Consultant, noted that there was a mistake on the application, which was for Charnwood Avenue rather than Charnwood Court as tabled and that the 'Standard Days and Timings' would now be seven days at 06:00 to 22:00 rather than the tabled 23:00 closing time.

Mr Birch confirmed that the application had been forwarded to Northamptonshire Police, Northamptonshire Fire and Rescue, Trading Standards, Child Protection and the Environmental Health Officer (EHO), all of who had no comments. Mr Birch also wished to note to residents that Planning had been granted to open the premises and that this hearing was only in regard to a Premises Licence for the sale of alcohol.

Mr Birch stated that the shop was of small proportion, only 50 square metres and that the addition of a Premises Licence was to provide a fully adequate shopping experience for their customers.

On the Licensing Objective of the 'Prevention of Public Nuisance' Mr Birch believed that he had taken sufficient advise from the EHO who had no comments on the original closing time of 23:00 in regard to the affect of noise on the residents. Mr Birch believed that the residents concerns regarding cars and music from cars were unfounded as most customer traffic for a retail outlet like this, would be footfall.

On the Licensing Objective of the 'Protection of Children from Harm, Mr Birch believed that the shops age verification policy was a sufficient deterrent as he had risk assessed the possibility of underage buying and proxy buying of alcohol as zero. He also wished to note that the larger local superstores were not immune to issues in regard to underage alcohol and proxy purchasing.

Mr Birch then called on Mr Henson, local resident, who lived in the locality during the troubles caused by the previous shop with a Premises Licence. Mr Henson confirmed that the family who ran the previous shop were irresponsible and leaving young family members in charge causing underage people to be served with alcohol. Mr Henson said that this in turn caused issues with Anti-Social Behaviour (ASB) in the area. In response to this Mr Birch defended their age verification policy and confirmed that the shop was to be properly managed.

### **Questions to the Applicant**

*Please Note: By the request of the public gallery Mr Birch agreed to also take the questions of unregistered speakers after the registered speakers.*

Members requested details about other retail premises owned by the chain

Ms Cann, local resident, asked Mr Birch what their plans were to combat the noise pollution in regard to the shop being attached to her property. She also wished to comment that all noise in the neighbouring premises could be heard but as the previous retail outlet only opened 09:00 – 17:00 this did not create a problem. Ms Cann noted that the proposed 06:00 to 22:00 would potentially lead to severe noise disturbance. She also wished to question what steps the shop would be taken to disperse gangs of children created by the shops proximity to a secondary school and the potential for ASB.

Mr Birch wished to remind Ms Cann that this hearing was not in regard to permitting the shop to open but only to make decisions on its suitability to sell alcohol. He did wish to note that lack of soundproofing was a result of the original development but he wanted to work closely with residents on the project and intended to improve this soundproofing. Mr Birch also wished to note that the shop would be completely vacated by staff at 10:15. In regard to potential issues with ASB, Mr Birch reminded Ms Cann of the Mr Hensons comments and that the previous issues were due to poorly managed premises. He stated that the Applicants were sensible shop operators who would install 24 hour CCTV in the shop and close outside areas.

Ms Cann asked a supplementary question if Mr Birch would be prepared to expand the CCTV to the entire residential area. The Chair confirmed that this was a matter for the Sub-Committee and Mr Birch noted that he would cooperate with residents who held genuine concerns but would be unable to commit to the entire area with no substantiation of what this entailed and how it could be managed.

Mrs Brain, local resident, asked Mr Birch why he saw the need in the area for another shop. Mr Birch responded that the shop was for local people but it was not for himself or this Sub-Committee to justify demand but was only for the concern of the Premises Licence.

Mr Green, local resident, asked Mr Birch how he could assure the residents and the Sub-Committee that the sale of alcohol in the shop would not attract vandals. Mr Birch considered the age verification policy to be robust enough not to attract youths to the premises but levels of vandalism was not something he could guarantee residents. Mr Birch also wished to note that there was no evidence of a direct correlation between the sale of alcohol and vandalism.

Mrs Goodenough, local resident, asked Mr Birch if he could guarantee that the sale of alcohol would not attract youths and cause them to gather behind residential properties. Mr Birch confirmed that his research supported the view of Mr Henson, in that, the previous shop owners in the area were not as responsible as the current Applicants. He also confirmed that he was confident they could meet the four licensing objectives and that the types of alcohol to be stocked, such as wine, were not aimed at young people.

Ms Hambridge, local resident, disagreed with Mr Birch's proxy risk assessment and asked Mr Birch how he was going to ensure that the shop would not serve 16, 17 and 18 year olds. Mr Birch confirmed that their ID Protocol and Age Verification Policy would ensure that underage persons were not sold alcohol but also noted that 18 year olds were legally permitted to purchase and consume alcohol.

Mr Luke, local resident, asked Mr Birch what consideration they had given to the requirement of a shop in the area. Mr Birch again confirmed that it was not for this Sub-Committee to address need but only to consider the Premises Licence and decide if they wished to grant, add to or refuse the Premises Licence.

The meeting was opened up to the floor in line with Mr Birch's earlier agreement.

Comments were made around the size of the site notices displayed in the shop and in the local media. These were confirmed to be visible and lawful. Discussion took place around the need for the shop, which was again dismissed as not a consideration for this Sub-Committee. Residents questioned why the closing hours had been changed. It was confirmed that it was never the shops intention to open till 23:00 but they initially wanted this to be licensed to avoid any future costs if the Applicants ever wanted to expand the opening hours.

### **Representation by the Representors**

Ms Cann reiterated the problems in the area when the previous licensed premises were open, which attracted youths from the senior school. She noted that it was not possible for the management of the shop to prevent the re-attraction of youths, which would again cause the young and old residents to feel distressed and vulnerable due to clusters of young people, vandalism and intimidating behaviour. Ms Cann also wished to confirm that the residents would have fewer objections to a grocery shop, as the sale of alcohol and the attraction of youths was their main fear and that concern for alcohol consumption for the underage was widespread as according to her figures 81% of under 18's are regularly drinking alcohol, there was an increase in hospital admissions for the under 18's due to drink related issues and the Government were introducing a minimum duty to make alcohol less accessible to the under 18's.

Mrs Brain commented that another shop in the area was not necessary.

Mr Green raised a situation where youths had offered to help him in the house with his shopping and later that night the car was broken into and the radio damaged, which he judged to be those youths. He also commented that there was another incident where he heard drilling in the night and the next day found that his petrol tank had been drilled into and his petrol siphoned, again this was deemed by Mr Green to be the result of young people. Mr Green stated that these incidents would occur again with a new shop and this would frighten the old residents who live alone. He also wished to note that a shop would damage the business of a weekly mobile shop.

Mrs Goodenough had no further comments.

Ms Hambridge noted the number of residents complaints and some of the previous distress

experienced by residents such as eggs thrown at windows, cars broken into and youths, primarily from the school, congregating in the alleys between residences. She also noted that the shop was not for the residents as there were other shops available so they would not be willing to pay their elevated prices.

Mr Luke reiterated that a shop was not needed or wanted in the area and that the residents have had peace for six years and he was confident that the shop would bring the return of burglaries and the 'bad old days'.

### **Questions to the Representors**

There were none

### **Summing up by the Applicant**

Mr Birch commented that on balance the representors representations were primarily accusatory. He did note that Ms Cann had some genuine concerns regarding noise and this was something that they would deal with by soundproofing. In regard to the need for the shop, Mr Birch confirmed that this was a decision for the Applicant and not a concern for the Licensing Sub-Committee but that they must consider the four licensing objectives. Mr Birch confirmed that that the underage alcohol policy employed by the shop was quick easy and thorough and if there were evidence of a real nuisance in regard to public nuisance, crime and disorder or underage drinking linked to the shop, the residents would have an avenue of complaint through the Licensing Officers and a Review of the Premises Licence, if the Sub-Committee were minded to grant the Licence.

### **Summing up by the Representors**

There was none.

### **The Determination**

There being no further questions, the Sub-Committee adjourned at 15:04 to make a decision and the Solicitor was called for advice.

The Sub-Committee reconvened at 15:53.

The Sub-Committee has considered the application for a Premises Licence for 23 Charnwood Avenue, Northampton made by Mr John Birch on behalf of Mr Muthunlinham.

The Sub-Committee noted that there had been representations made by:

- Ms Cann;
- Mrs Brain;
- Mr Green;
- Mrs Goodenough;
- Ms Hambridge; and
- Mr Luke

based on prevention of Crime & Disorder, Public Safety, the prevention of Public Nuisance and the Protection of Children from Harm.

The Sub-Committee were fully aware that the hearing was only to address the sale of alcohol, NOT the opening of the store generally as that was not something this Sub-Committee could decide on.

The Sub-Committee heard all the representations made by all those who spoke and considered all the written submissions, including the petition. Upon taking these into consideration, it has been decided to GRANT the application for the sale of alcohol between

the hours of 0600 and 2200.

However, the Sub-Committee wished to place the following conditions:

1. A CCTV system must be maintained and meet the requirements and expectations of the Licensing and Police Authorities. CCTV must cover the whole of the inside of the premises and ALL of the entrances and exits of the premises. The systems must operate at all times the premises are open. Recordings must be kept for 31 days and a responsible member of staff must be trained in how to use the system and retrieve recordings upon the request of an officer of a responsible authority; and
2. A refusals book must be maintained and made available on request to an officer of a responsible authority.

The Sub-Committee noted that the sale of alcohol could be legally made to anybody over the age of 18 years, but they strongly suggested that the Applicants follow a "Challenge 21 Policy"

The reason for this decision was that the Sub-Committee felt that even after the concerns that were raised, the Applicant had demonstrated that on a balance of probability, he would uphold and promote the four licensing objectives.

Should any of the objectors suffer from any issues at a later date, which did not adhere to the four licensing objectives, the law does allow them to call a Review of the Premises Licence.

All parties have the right to appeal the Sub-Committee's decision to the Magistrates Court within 21 days of the date of decision.

The meeting concluded at 4:05 pm