

# NORTHAMPTON BOROUGH COUNCIL

## LICENSING SUB-COMMITTEE

Thursday, 28 July 2011

**COUNCILLORS PRESENT:** Councillors Strachan (Chair) Eales and Sargeant  
**OFFICERS:** Mohammed Rahman (Solicitor)  
Phil Bayliss (Licensing Officer)

**FOR THE APPLICANT:** PC Bryan (Northamptonshire Police)

**FOR THE REPRESENTORS:** Mr Carr (Personal License Training)

### 1. INGSLEY STORE, 82 KINGSLEY PARK TERRACE, NORTHAMPTON, NN2 7HL

The Chair introduced members of the committee and welcomed everyone to the meeting.

The Licensing Officer outlined the purpose of the hearing and explained that an application for the review of the premises had been received from Northamptonshire Police on 2 of the Licensing Objectives; the prevention of crime and disorder and the protection of children from harm. The Licensing Officer then explained the procedure of the hearing.

#### Application for the Review

PC Bryan from Northamptonshire Police confirmed that they had applied for the review of the premises on the grounds of the Licensing Objectives of Crime and Disorder and Protection of Children from Harm. He reported that on the 8<sup>th</sup> April 2011 Northamptonshire Police had conducted a Test Purchase operation at the premises in relation to the sale of alcohol to minors. The seller sold alcohol to two 15 year olds. The seller was arrested at the premises for immigration offences as his student visa had expired. Furthermore on the 13<sup>th</sup> May 2011, Northamptonshire Police carried out another Test Purchase in relation to the sale of alcohol to minors and the seller again sold alcohol to a 15 and 16 year old. PC Bryan expressed his concerns to the Sub-Committee and spoke of the links between anti-social behaviour and disorder and the underage sale of alcohol. He further commented the young persons who have consumed excessive amounts of alcohol are either directly involved in or are the victims of Crime and Disorder.

Councillor Sargaent asked if an interpreter had been available when the license had been applied for.

The Police were unable to clarify, but suggested that the respondent may have been granted a license through 'Grandfathers' rights, and therefore it was not always necessary to interview the applicant in person.

Further clarification was sought from the Sub-Committee as to the respondent's ability to speak sound English. It was confirmed that it was not his first language but that on the occasions when the Test Purchase had been conducted, the Designated Premises Supervisor had not been present.

#### Representation by the Respondent

Mr Carr from Personal License Training (PCT) spoke on behalf of the respondent Mr Kanagaratnam. He explained that there seemed to be an inherent problem of small independent traders selling alcohol to underage persons. He reported that there seemed to

be a lack of staff training and a lack on knowledge with regards to the Licensing Objectives and suggested that staff training be imposed on the licence. In exploring the decision the Sub-Committee could make he spoke of the retailers previous 6 year experience, where he had never failed a test purchase. He argued that suspending the license would have an extreme financial burden but noted that one option could be the removal of the Designated Premises Supervisor and another option would be revocation.

Mr Carr put forward a number of alternative proposals to be added as Conditions on to the Premises Licence:

1. Compulsory Staff training for all members of staff, whether the staff be part time or full time staff and the training would be on their responsibilities and duties and on the Act.
2. Advanced training for the designated premises supervisor (DPS) by way of a DPS responsibilities course.
3. A 'Challenge 25' policy to be put into effect at the store.
4. 'Challenge 25' posters to be displayed
5. A refusals register to be kept and all members of staff and the DPS to be shown how to use it.
6. Records of staff training to be kept at the store. These should be open for inspection by any responsible authority, i.e Police, Trading Standards, and Licensing Authority Officers.
7. Staff training on fake identification cards and acceptable forms of ID.
8. Compulsory staff training for any new member of staff and regular staff training updates every 3 months
9. Staff training in video image retrieval and the importance of this
10. All of those proposed conditions to be added to the Licensing Schedule for Kinglsey Store.

Mr Carr reminded the Sub-Committee that the maximum penalty for sales of alcohol to persons under the age of 18 was currently £5,000 but that there were proposals for them to be raised to £10,000. He reported that the main function of the Licensing Authority is to ensure the Licensing Objectives were not undermined and by revoking or suspending the license they would still be able to sell age restricted products such as cigarettes.

Mr Carr stated it would be fair for the respondents to be given a second chance and that his client wanted to apologise for his staffs lack of training and grasp of English and ensured the Sub-Committee that future training would be carried out in Tamil and English to ensure staff are fully aware of the Licensing Objectives.

### **Questions to the Respondent**

Councillor Eales asked where the respondent was when the sales of alcohol to minors had taken place. It was noted that the first time he had not been present in the shop and on the second occasion he had not been in the country. Councillor Eales questioned what measures had been put into place between the first and second offence. Mr Carr answered that a colleague of his had been in the process of getting staff training manuals but was unexpectedly taken ill and unable to continue with the training.

Councillor Eales asked how much the training was going to cost. Mr Carr calculated that it would be some in the region of £1,000. In response to a further question, Mr Carr stated that the percentage of sales of alcohol accounted for between 25-30 percent. Councillor Sargaent asked if, in the past 6 years, there had been any other incidents, to which Mr Carr answered that there had been no other incidents. The Chair asked how long Mr Kanagaratnam had taken overall responsibility for the store. Mr Carr explained that his client had bought the store 5 years ago and it was only very recently that they had failed a Test

Purchase. Following comments made by the Chair about the lack of intervention between the 2 incidents, it was explained by Mr Carr that the new staff had been put into place, whose English was debatable but said that this had been done in a hurry due to the fact that there had been a death in the family which had resulted in the respondent having to fly back to Sri Lanka at short notice.

PC Bryan said that the Police would support any further training carried out but did not think that it should be a condition on the license as it should be the responsibility of the License Holder. A number of other conditions offered by Mr Carr were also said to be unenforceable by the Police and that Test Purchases were often carried out as a result of gathering information from residents and PCSO's.

Trading Standards also confirmed that there had been 2 sales of alcohol to minors by way of Test Purchases. As a direct consequence of one visit a letter was sent to the premises informing them of the penalties and notices. He further stated that an 'age restricted pack' had also been sent of which contained a refusal register and should further information have been requested, Trading Standards would have supplied.

Councillor Eales asked if the information sent by Trading Standards was available in any other languages. He was informed that it was only supplied in English due to the expectation that people should have a good enough command of English. In response to questions, the Trading Standards representative reported that there were between 20 and 30 enforcement officers were employed and that they used intelligence to target areas, but prior to this notification would be sent out informing licensed premises that checks and visits would be undertaken.

Mr Carr reported that enforcement notices should be in a number of languages, a comment that Councillor Strachan took on board but noted that sellers needed to have a command of English.

### **Summing up by the Respondent**

Mr Carr stated that his client was a seasoned and experienced retailer who had previously had a very good record. He acknowledged the fact that there were problems with the language barrier and noted that prior to his colleagues illness training provision had been undertaken, but yet to be completed. He asked that should the Sub-Committee choose to suspend his clients' license that they be lenient. If they agreed for the conditions to be imposed he assured them that there would be no further problems with the store.

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

PC Bryan stated that the Police would like to see a suspension of the License. He argued that the Licensing Objectives had been undermined on two occasions suspension should be considered by the Sub-Committee.

### **The Determination**

There being no further questions, the Sub-Committee adjourned at 13.02 to make a decision and the Solicitor was called for advice.

The Sub-Committee reconvened at 13.31

The Sub-Committee considered the Review of the Premises Licence for Kingsley Store, 89 Kingsley Park Terrace, Northampton, which was called in by the Northamptonshire Police on the grounds of the Prevention of Crime and Disorder and the Protection of Children from

harm.

The Sub-Committee considered the arguments raised by all parties, by hearing all representations from the Police and also from Mr Carr who represented Mr Kanagaratnam (the Licence Holder).

Although the police highlighted immigration issues, the Sub-Committee were not there to make assessments on that basis. However, the issues that had been taken into consideration are the under age sales.

Due to the seriousness of this matter, and the potential risk of harm to children, the Sub-Committee were very strongly considering the revocation of the Premises Licence.

Members were fully aware of the problems of excess alcohol in society and alcohol consumption amongst youths, which had lead to anti-social behaviour, such as abuse to residents and, urinating on peoples properties and as a Committee, needed to protect the people of Northampton.

However, the Sub-Committee came to the conclusion that in order to promote and uphold the Licensing Objectives a sanction must be imposed, and the only viable course of action would be to suspend the Premises License. The suspension would be for a period of 2 months.

The Sub-Committee were grateful to Mr Carr for putting forward the suggested conditions, and although they would not impose these as conditions it was recommend that once the Premises re-opened, Mr Kanagarantam adhered to those proposals, by having a strict policy of checking ID and running comprehensive training for the staff.

This suspension would take effect 21 days after the service of the Decision Notice.

It was noted that all parties had the right to appeal this decision to the Magistrates Courts if they felt that this it was necessary, within 21 days.

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The meeting concluded at 13.36

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