

# NORTHAMPTON BOROUGH COUNCIL

## LICENSING SUB-COMMITTEE

Thursday, 9 February 2012

**COUNCILLORS PRESENT:** Councillors Duncan (Chair) Malpas and Eales

**OFFICERS:** Mohammed Rahman (NBC Solicitor)  
Louise Faulkner (Licensing Administrator)

**FOR THE APPLICANT:** PC Bryan – Northamptonshire Police  
Sgt Worthington – Northamptonshire Police

**FOR THE REPRESENTORS:** Mr Birch – Licensing Consultant  
Mr Gohel – Personal License Holder

### 1. REVIEW OF A PREMISES LICENSE - MINI EXPRESS- 29A ST GILES STREET

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 on the grounds of the Licensing Objectives of Crime and Disorder and Protection of Children from Harm following a preliminary test purchase on the 30<sup>th</sup> September 2011 and a subsequent test purchase on the 21<sup>st</sup> October 2011. Two 15-year-old children had purchased alcohol on both occasions and the sellers had been dealt by way of a Penalty Notice for Disorder to the sum of £80, both tickets of which had been paid. It was noted that the Premises License Holder, Mr Yogesh Popatlal Gohel (Raybeck Enterprises Ltd), had been interviewed at Campbell Square Police Station under caution for the offence of Persistently Selling Alcohol to Children contrary to Section 2147a of the Licensing Act 2003.

In response to questions of the Sub Committee, PC Bryan explained that on both occasions it had been the same person who was caught selling – Mr Devjee. He further explained that respondents were bought before the Sub Committee if they had two failed test purchases and not three, which had previously been law. Asked if there had been any test purchases carried out in the weeks between the Test Purchase Operations, PC Bryan explained that none had taken place during this time or after the latter incident.

#### Representation by the Respondent.

Mr Gohel stated that he fully understood his responsibilities as both a Personal License Holder and the Director of Raybeck Enterprises. He explained that he had not been responsible or present when the underage sales had occurred but reported that substantive and fundamental changes had been made to the operation of the premises. He stated that he was very determined and committed to improving his business and reported that the seller (Mr Devjee) had been removed from the premises as a result of the underage sales and for theft from the premises. Mr Gohel proceeded to inform the Sub Committee that the

changes made included further training of his staff with regards to the refusal logbook and reiterating to staff the importance of requesting photographic ID when selling age related products.

In response to questions asked by the Sub Committee, Mr Gohal explained that the seller had received verbal training off himself. Asked if Mr Devjee had been removed from the premises for stealing or for the offence of under age selling, Mr Gohal explained that the two had happened simultaneously and was therefore removed as a result of both actions. In response to a further question, Mr Gohel explained that the sale of alcohol contributed to approximately 20 percent of his revenue and commented further that link sales of items such as cigarettes and crisps increased his revenue; any restrictions imposed on the license that would restrict the sale of alcohol would have a severe impact on the business.

Mr Birch (Licensing Consultant) spoke on behalf of the respondent Mr Gohel. He commented that the crime needed to be dealt with and explained that Mr Gohel was expected before the Magistrates Court, in the very near future, and would plead guilty to the offence. Mr Birch gave mention to the fact that at the time of the test purchases Mr Gohel had not been in good health and had employed Mr Devjee as a result of this. He reported that since the offences had taken place his client had taken an active and positive role in providing further training for his current staff members by means of assisting them in obtaining their Personal Licences. It was noted that Mr Gohel had also spent more time on the premises. He asked that consideration be given to the financial implications of Mr Gohel's Magistrate appearance, which would be further exacerbated should the Sub Committee place further sanctions on the License.

In response to questions asked by the Sub Committee, it was explained that CCTV within the premises was recorded digitally and stored on a hard drive for approximately 4 weeks. It was noted that whilst Mr Gohel was the only person able to access the CCTV, he would be happy to train other staff members to access it should it be considered necessary. It was noted that within the premises there were 10 CCTV cameras and that there was 1 external camera.

Pc Bryan asked about his license to sell alcohol over the Internet. Mr Gohel explained that this was amounted to a relatively small number of sales, where people would place orders over the Internet or phone for alcohol, which would then be delivered by Mr Gohal. He explained that he had suspended Internet Sales from his license due to fraudulent acts by customers, but that when he had taken part in the delivery of alcohol he would ask for proof of age by means of photographic identification. In response to a question from the applicant, Mr Gohel stated that his staff had been trained to ask for Photographic ID should the purchaser look under 25 years of age.

The Chair asked if Mr Birch wanted to Sum Up, which he declined as he felt he had informed the Sub Committee of all relevant information.

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

PC Bryan stated that there were a number of options available to the Sub Committee. He asked Members to be mindful of the Worksop v's Bassett Law and commented that there were a number of conditions that could be placed on the License, which included modifying the license with regards to sales after 6pm, requesting a Designated Premises Supervisor be present at all times, CCTV conditions and suspension or modification to Internet Sales.

There being no further questions, the Sub Committee adjourned at 10.24am to make a decision and the Solicitor was called for advice.

The Sub Committee reconvened at 10.48am.

### **The Determination.**

The Sub-Committee considered the Review of the Premises Licence for Mini Express, 29a St Giles Street, Northampton, which was called in by the Northamptonshire Police on the grounds of the Prevention of Crime & 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 Birch representing Mr Gohel of Raybeck Enterprise Ltd.

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

Being fully aware of the problems of excess alcohol in society and alcohol consumption amongst youths, which can lead to crime and anti-social behaviour, as a Committee it was deemed a necessity to protect the people of Northampton.

However, the Sub-Committee concluded that in order to promote and uphold the Licensing Objectives, a sanction must be imposed. Mr Gohels circumstances were taken into account a decision was made to amend the conditions of the Premises Licence.

The Sub Committee agreed that Conditions be amended (with Conditions one and two as added below and the third condition removed) on the Premises Licence as follows:

1. During the hours of operation, when the sale of alcohol takes place, a Personal Licence Holder, or person who has had formal training to the level of a Personal Licence Holder, must be present in the Premises.
2. CCTV footage must be stored for at least one month and made available to Northamptonshire Police, the Licensing Authority or any partner agency, upon request by any of those authorities.
3. The Condition in connection with Internet Sales is to be removed from the Premises Licence.

These amendments would take effect 21 days after the service of the Decision Notice.

All parties had the right to appeal the decision to the Magistrates Courts if they felt that this was necessary within 21 days.

<TRAILER\_SECTION>

The meeting concluded at 10.50am

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