

NORTHAMPTON BOROUGH COUNCIL

LICENSING SUB-COMMITTEE

Thursday, 15 March 2012

COUNCILLORS PRESENT: Councillors Malpas (Chair) Duncan and Sargeant

OFFICERS: Mohammed Rahman (NBC Solicitor)
Phillip Bayliss (Principle Licensing Officer)

FOR THE APPLICANT: Mr Birch – Licensing Consultant
Mr Kokulathas - Applicant

FOR THE REPRESENTORS: Pc Murphy – Northamptonshire Police
Ms Mason – Northamptonshire Trading Standards

1. TO CONSIDER A PERSONAL LICENCE APPLICATION

The Chairman introduced Members of the Sub-Committee and welcomed everyone to the hearing.

The Licensing Officer outlined the purpose of the hearing to consider a Personal License Application of Mr Kokulathas. He informed the Committee that an objection notice had been received from the Police, as the applicant had a conviction from 2010 for sale of alcohol to a person under the age of 18. An objection notice had also been received from Trading Standards. The Licensing Officer then explained the procedure of the hearing.

Application for a Personal License

Mr Birch (Licensing Consultant representing the applicant) explained that there was no dispute that Mr Kokulathas had been convicted of selling alcohol to a person under the age of 18 in 2010, but stated that Mr Kokulathas was not the person who had sold the alcohol; he had been convicted in his capacity as the premises license holder. He further stated that there had been no subterfuge with regards to the incorrect order of names appearing on documents as the Tamil custom involved exchanging the first and surname around, an error made by Mr Birch. It was noted that in November 2010 an application had been granted for a premises license and whilst it had been contested, no objection notice had been received from the Police. Mr Birch explained that Mr Kokulathas held a premises license holder of two premises in Northampton, his brother of whom was the Designated Premises Supervisor. The Committee were informed that a refusal of the Personal License would not alter his capability to sell alcohol, as he was already a License Holder.

The Solicitor asked the Police if there had been a time delay between the conviction and the appearance on the CRB. Pc Murphy explained that the system used in 2010 was different to the current system but could not confirm if there had been a delay. Pc Murphy also confirmed that the applicant (Mr Kokulathas) was not the person who had made the sale, but he had been prosecuted as the Premises License Holder.

Representation by Objectors

Pc Murphy explained that whilst Mr Kokulathas had not technically been responsible for the sale of alcohol to an under 18, he had been convicted as the responsible person being the Designated Premises Supervisor. He commented that the offence was relevant under the

Licensing Act 2003 and that granting the application could undermine the Licensing Objective of the Prevention of Crime and Disorder.

Ms Mason confirmed Trading Standards – a responsible authority, had submitted an objection notice.

Summing up by the Applicant

Mr Birch stated that under the rehabilitation of offenders, Mr Kokulathas would retain his conviction. He commented that Mr Kokulathas had shown responsibility by applying for the Personal License, even though he would be able to continue in his existing role without one.

Summing up by the Objector(s)

Pc Murphy summarised by stating that due to the recentness of the offence he felt that there was no other option other than to object to the application.

There being no further questions, the Sub Committee adjourned at 10.17am to make a decision and the solicitor was called for advice.

The Determination

Having heard from Mr Birch, on behalf of the applicant and from PC Murphy on behalf of the Police it was noted the police had objected on the basis that the applicant was convicted in September 2010, for selling alcohol to a minor. The Sub Committee noted that the applicant was convicted on the basis that he was the person responsible at the time when the under age sales were made, but he did not make the sales himself. However, they recognised that he was still the person in authority at the time.

Members acknowledged that any confusion in the name of the applicant, was caused by Mr Birch administratively and not as a means to confuse or defraud any authority in any way.

Having considered the guidance under the Licensing Act 2003, and the recommendations of the Secretary of State that should the Police object to an application, it should be refused unless there were exceptional and compelling circumstances to allow the application.

Members paid regard to the Rehabilitation of the Offenders Act 1974, and noted that the rehabilitation period for a sentence for a conviction, which was in the form of a fine, was 5 years.

It was noted that the applicant held a premises licence for two different premises and the applicant had completed all the relevant and up to date licensing training.

It was therefore considered more beneficial to have the seller of alcohol hold a Personal Licence and hold more accountability, than to conduct sales with no licence at all. Should the application be refused, the applicant could continue acting as he was today, and could continue to sell alcohol but without a licence.

Therefore, in order to formalise the situation and having taken into account that the applicant was not the physical seller of the alcohol, which led to the conviction in September 2010, the application would be granted.

It was noted that should any party not be happy with this decision, all parties would have 21 days to appeal the decision to the Magistrates Court.

The meeting concluded at 10.46am