

NORTHAMPTON BOROUGH COUNCIL

LICENSING SUB-COMMITTEE

Monday, 25 February 2013

- PRESENT:** Councillor Beardsworth (Chair); Councillors Malpas and Sargeant.
- OFFICERS:** M Rahman – NBC Solicitor.
S Ryan – NBC Trainee Solicitor
P Bayliss – NBC Senior Licensing Officer.
- FOR THE APPLICANT:** Mr Mustafa Mansury (applicant's representative).
- FOR THE REPRESENTORS:** Sergeant M Worthington and PC Bryan – Northamptonshire Police.

1. APPLICATION FOR A PREMISES LICENCE: - UP ALL NIGHT, 3 REGENT SQUARE, NORTHAMPTON NN1 2NQ

The Chair welcomed everyone to the meeting.

The Senior Licensing Officer outlined the purpose of the hearing and explained that on 2 January 2013 an application was received for a variation to the Premises Licence in respect of Up All Night, 3 Regent Square, Northampton to enable the licence holder to deliver alcoholic beverages to customers with or without food. The application was to supply alcohol between the hours of 5pm and 3am (the premises being open from 4pm until 5am) for consumption off the premises.

An objection to the application had been received from Northamptonshire Police on 29 January 2013 on the grounds of the Prevention of Crime and Disorder. No other objections had been received.

Application for Premises Licence

The applicant's representative, Mr Mustafa Mansury, stated that the applicant wished to sell wine and beer to his customers as a service to them. He considered that it would be irresponsible to sell other strong alcoholic drinks. He would like to be able to sell these drinks to customers only when they purchased or ordered food from his premises. He stated that the premises had been serving customers for eighteen years without any incidents and that the majority of the customers were reasonable adults. He did accept, though, that a small minority of people did look to cause trouble in the evenings.

Mr Mansury stated that he had submitted the application and that the business would be transferred to him at a future date and he would be the Designated Premises Supervisor.

He stated that he had been in discussions with the Police and believed that their objection to the sale of alcoholic drinks with food for consumption off the premises until 3am was a reasonable one. He proposed now to provide alcoholic drinks with food purchased from his premises until 11pm, which would be in line with the time the off licences closed. Any sales of alcoholic drinks after that time would be with orders of food delivered to personal addresses.

Questions to the Applicant

In response to questions from the Sub Committee and the respondent the applicant's representative stated that:

- It was his intention only to provide beer and wine to customers but he could not predict future trends and customers might want stronger drinks in the future.
- Staff would be trained to ask customers their age when ordering drinks and food at personal addresses and informed that photo identification would be required from anyone looking under the age of 21 when the food and alcohol was delivered. If such identification could not be provided, the alcohol would be returned to the premises and the cost refunded to the customer through cash or via a refund on a credit/debit card. Advertisements and leaflets for the premises would also indicate this position.
- Identification would primarily be passport or photo driving licence but proof age cards (as approved by the Police and the Home Office would also be acceptable). It was noted that a birth certificate was not proof of a particular person's identity or age.
- Delivery drivers would assess face-to-face whether a person appeared to be legally old enough to drink alcohol when the delivery was made and would respond as above. Drivers and staff working on the premises would receive training in this area and would be fully briefed regarding the legal age for the consumption of alcoholic beverages. They would be trained not to engage with customers if an incident occurred.
- In terms of risk assessment Mr Mansury stated that there were risks involved in supplying alcohol. However, in the vast majority of cases the premises staff would be able to identify whether someone coming into the shop or telephoning for a delivery of food and alcohol was already inebriated and would then decide whether or not to accept the order.
- In answer to a question about the quantity of food someone had to buy to be able to buy alcohol from the premises Mr Mansury stated that the amount of alcohol sold would be proportionate to the amount of food a person bought and would have to be reasonable.
- It was stated that alcoholic beverages sold at the premises would not be inexpensive so it would not be a cheap way for someone to become further inebriated.
- It was noted that there were other premises near to this one which sold alcoholic beverages, including a public house nearby and a chemist shop which sold alcohol until 8pm nearby.
- There was no longer an eating area on the premises so all food and alcoholic drinks purchases would have to be consumed off the premises.
- Mr Mansury held a personal licence and would encourage as many of his staff as possible (currently 4 or 5 working on the premises plus 6 drivers) to also obtain personal licences.

Representations by the Respondent

PC Bryan apologised for the difficulties that Mr Mansury said he had faced in trying to contact him.

PC Bryan stated that the Police were not totally opposed to the application but did have concerns regarding the anti-social behaviour and alcohol fuelled violence which already took place in the area of Regent Square, which was covered by the Nightsafe scheme. There were also issues with people consuming alcoholic beverages in the area in the daytime. The Police considered that people buying drinks with their food at 3am would exacerbate the situation. They were not opposed to the sale of alcoholic drinks from the premises until

11pm, to be followed by deliveries of alcoholic drinks with food orders to private addresses after that time.

PC Bryan recommended that the Premises Licence be varied to allow the sale of beer and wine but not stronger drinks. He stated that if the applicant wished to sell stronger drinks in the future he could apply for a variation and there would be a review and consultation.

Questions to the Respondent

In response to questions from the Sub Committee and the applicant's representative PC Bryan stated that:

- The Police would not expect off licences and similar establishments to allow people to consume alcoholic beverages outside their premises.
- If anti-social behaviour occurred it fell within the remit of the Police to resolve.

Summing up by the Respondent

PC Bryan stated that he had nothing further to add and that the Police had suggested conditions if the Panel wished to approve the application.

Summing up by the Applicant

Mr Mansuri stated that if the application was granted he would need to assess the impact it would have on the business. His current assessment was that the application, if approved, would allow him to provide a service to his customers. He stated that people could currently purchase alcohol for consumption off the premises until 11pm and this is what he sought to provide for his customers. After 11pm alcohol would only be provided to customers who ordered food to be delivered to private addresses.

There being no further questions, the Sub Committee adjourned at 10.52am to make a decision. The Solicitor was called for advice.

The Determination

The Sub-Committee had considered the application to vary a Premises Licence for Up All Night, 3 Regent Square, Northampton made by Mr Mansury on behalf of the Applicant, Mr Khosravi.

The Sub Committee took into consideration the representation raised on behalf of Northamptonshire Police under the licensing objective of Prevention of Crime and Disorder. It was noted that the Police said they "had no issue with alcohol being delivered with a take away order, or with a seated table meal."

After hearing all the representations from both sides and considering this matter very carefully, it was decided to grant the application, with the following conditions:

- Any sale of alcohol is restricted to beer and wine only and must be purchased with food.
- Alcohol can be sold at the premises for consumption off the premises up until 2300.
- After 2300 any sale of alcohol must be made with a home delivery only.
- All sales of alcohol must be checked with a valid photo ID e.g. Drivers Licence, Passport, PASS Card
- There must be at least one Personal Licence Holder at the premises when an order

for alcohol is taken and a sale is authorised

The Sub-Committee recommend that the Applicant makes it absolutely clear that a Valid Photo ID will be required when alcohol is to be sold and supplied to its customers.

The Sub Committee were content that by placing these conditions, they are proportionate and appropriate to uphold the licencing objectives, in particular the Prevention of Crime and Disorder.

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

The meeting concluded at 11:16 am