

NORTHAMPTON BOROUGH COUNCIL

LICENSING SUB-COMMITTEE

Monday, 25 February 2013

- COUNCILLORS PRESENT:** Councillors Beardsworth (Chair); Councillors ,Eales and Sargeant
- OFFICERS:** M Rahman – NBC Solicitor.
S Ryan – NBC Trainee Solicitor
P Bayliss - NBC Senior Licensing Officer.
- FOR THE APPLICANT:** Sergeant M Worthington and PC D Bryan – Northamptonshire Police.
- FOR THE REPRESENTORS:** Mr Abdullahi (respondent) and Ms Amrisha Parathalingham (representative).

1. REVIEW - BOOZE N STUFF, 15 ST LEONARDS ROAD, NORTHAMPTON NN4 8DL

The Chair welcomed everyone to the meeting.

The Senior Licensing Officer outlined the purpose of the hearing and explained that on 9 January 2013 an application was received for a review of the Premises Licence in respect of Booze N Stuff, 15 St Leonards Road, Northampton. The application was submitted by Northamptonshire Police and related to two Test Purchases where underage persons were sold alcoholic drinks at the premises to be taken away for consumption.

Application for the Review

PC Bryan stated that the grounds for review were under the Licensing Objectives of the Prevention of Crime and Disorder and the Protection of Children from Harm.

He stated that on 22 June 2012 two Test Purchasers, aged 15 and 16, had been sold two bottles of alcoholic beverage. The seller, an employee of the shop, had been issued with a Penalty Notice for Disorder (£80), for an offence under Section 146 of the Licensing Act 2003 of selling alcohol to a minor. On 18 August 2012 a second Test Purchase had been carried out, using two 16 year old people, who had been sold two bottles of alcoholic beverage. The seller was Mr Abdullah, the Premises Licence Holder, who was invited at a later date to Campbell Square Police Station and formally P.A.C.E. interviewed about the sale.

Mr Abdullahi, at the interview, admitted the offence under section 146 of the Licensing Act 2003 of selling alcohol to a minor and was Cautioned for the offence. In addition, Mr Abdullahi accepted a Section 169A Closure Notice for Persistently Selling Alcohol to Children, rather than being reported for the offence of Section 147A of the Licensing Act 2003 and going to court. The Closure Notice was served on 10 October 2012 and the closure dates were 12 noon on 26 October to 12 noon on 9 November 2012.

The Police had waited until January 2013 to submit the review application as the Police had run an operation to reduce alcohol fuelled violence in December 2012 and if the premises had come to their attention during that period the Police would have added any additional

information to the Review papers. PC Bryan conformed that there had been no further matters to add.

The Police had concerns that during the interview mentioned above Mr Abdullahi did not know the full name of his Designated Premises Supervisor (DPS) and could only state that the DPS ran a business in Peterborough. He stated that the DPS did visit the premises from time to time but this is difficult to prove or disprove. Mr Abdullahi clearly ran the day to day business of the premises and had been present on the occasion of both Test Purchases and on each occasion PC Bryan had visited the premises.

The Police were concerned that in their view Mr Abdullahi had little knowledge of the Licensing Act 2003 or his responsibilities under the Act.

The Police considered that Mr Abdullahi should take a course for Personal Licence Holders and obtain a Personal Licence, that he should then vary the Premises Licence to make himself the Designated Premises Supervisor (DPS) as he is in day to day control of the business, and should also take a course in respect of being a DPS, which are run by many institutions. He suggested that a time limit should be placed on Mr Abdullahi completing the DPS course.

Questions to the Applicant

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

- No further Test Purchases had taken place at the premises since 18 August 2012 and there had been no Police visits to the premises since the closure of the premises for the sale of alcohol between 26 October and 9 November 2012.
- PC Bryan confirmed that he now had details of the DPS for the premises but had not met the DPS.
- PC Bryan said he did not have details of the length of DPS courses. The respondent's representative asked that the time limit for completing the course should be summer 2013 as she understood it was necessary to have a Personal Licence and have it varied to make himself the DPS of the premises before he could undertake a DPS training course. She stated that the respondent had completed a training course for Personal Licences and had now applied for a Personal Licence. A decision on that application was awaited within fourteen days' time.

Representations by the Respondent

The respondent's representative stated that the premises had failed the two Test Purchases on 22 June 2012 and 18 August 2012. She stated that the respondent had made the sale on 18 August 2012, when he had been under severe personal stress. She said that she did not offer this as mitigation but to give a flavour of the background at the premises at that time.

She stated that the respondent had now completed a training course for a Personal Licence and that the certificate of completion of the course had been submitted to the Police/Council. She stated that the delay in the respondent obtaining a personal Licence related to disclosure issues with the respondent having been a Looked After Child after migrating to this country.

The respondent's representative stated that the respondent had taken proactive steps at his premises, including Challenge 21 procedures, maintaining a refusals register and confirming

that he would undertake a DPS training course. She asked that the premises be allowed to continue to sell alcoholic beverages as there had been no recorded incidents at the premises since they were closed between 26 October and 9 November 2012.

Questions to the Respondent

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

- The employee who had failed the Test Purchase on 22 June 2012 was no longer employed at the premises.
- The respondent confirmed that he was the owner of the premises and that they were his principal business.
- PC Bryan confirmed that the Police had had received an application for a Personal Licence from the respondent and a certificate of completion of the personal Licence training course. These papers had been passed to the Borough Council officers.
- The respondent's representative stated that she had no information about DPS training courses but her inquiries had suggested that the training courses would be held in September. Sergeant Worthington stated that training courses were run by a number of agencies and were day courses. Once the applicant had received a Personal Licence he could apply for it to be varied to become a DPS but did not need to be a DPS to take a DPS training course. He suggested that a three month limit be placed on the respondent completing a DPS course.

Summing up by the Applicants

PC Bryan stated that he was happy that the applicant had taken a Personal Licence training course and had now applied for a Personal Licence. He considered that a DPS training course would be beneficial to the applicant and asked that a time limit be set for completing this course.

Summing up by the Respondent

The respondent's representative stated that Mr Abdullahi had taken a number of proactive steps at the premises, as referred to above. She stated that any time limit for the completion of a DPS training course which might be set by the Sub-Committee would be strictly adhered to by the respondent. Her inquiries had suggested that a training course would be held in September 2013, which was why she had requested a time limit of the summer. The Police had a list of organisations which provided this training and, at the request of the Chair, undertook to liaise with the respondent and his representative regarding this information.

There being no further questions, the Sub Committee adjourned at 11.38am to make a decision. The Solicitor was called for advice.

The Determination

The Sub-Committee had considered the Review of the Premises Licence for Booze N Stuff, 15 St Leonards Road, 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 from Ms Parathalingham on behalf of Mr Abdullahi.

The primary issues taken into consideration were the two under age sales within a period of two months.

This was a very serious matter, and there was a serious potential risk of harm to children which this authority did not take lightly.

However, the Sub-Committee were impressed that Mr Abdullahi had taken steps to prevent any further incidents from occurring and already completed the Personal Licence Course.

The Sub-Committee also noted that the Premises Licence Holder was cautioned for the offence of selling alcohol to minors and accepted a s169A Closure Notice and was refrained from selling alcohol for a period of 14 days.

However, the authority has a duty to carry out in relation to the sale of alcohol and came to the conclusion that in order to promote and uphold the Licensing Objectives, the Premises License would be amended for a period of three months. These amendments were that Mr Abdullahi must do the following:

- Must obtain a Personal Licence
- Successfully complete a Designated Premises Supervisor Course
- Complete a transfer to put himself as the Designated Premises Supervisor for this premises

The above requirements MUST be completed by 24 May 2013.

The Sub-Committee asked the officers to set a provisional hearing for 27 May 2013, or as close as possible, to address this matter, should the above conditions not be adhered to.

If the conditions were met prior to 24 May 2013, then the hearing proposed for 27 May 2013 shall be vacated and the matter shall be concluded.

The Sub-Committee felt these are appropriate measures to ensure the Premises Licence holder got his house in order and the Licensing Objectives were upheld. It was strongly recommended that Mr Abdullahi work closely with the Police to achieve this.

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

The meeting concluded at 12:07 pm