

NORTHAMPTON BOROUGH COUNCIL

LICENSING SUB-COMMITTEE

Wednesday, 17 April 2013

COUNCILLORS PRESENT: Councillors Malpas (Chair), Duncan and Sargeant

OFFICERS: Mohammed Rahman (NBC Solicitor)
Sarah Ryder (NBC Ttrainee Solicitor)
Bill Edwards (NBC Senior Licensing Officer)

FOR THE APPLICANT: Sinniah Vijayaasingham (applicant) and Debra Silvester (agent)

FOR THE REPRESENTORS: Mr Labrum (resident)

1. 244 MAIN ROAD, DUSTON

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

The Senior Licensing Officer outlined the purpose of the hearing, which was to apply for a new premises licence to sell alcohol for consumption off the premises at 244 Main Road, Duston, between the hours of 06:00 and 23:00 Monday-Sunday inclusive. The application for the licence had been received on 1 March 2013.

The Sub-Committee were informed that two objections to the application had been received from Mr Labrum and Mr Martin on 4 March 2013 and 11 March 2013 respectively. The objections were on the grounds of the prevention of public nuisance, public safety, the prevention of public nuisance and the protection of children from harm.

No objections had been received from the Police, Fire Authority or Environmental Health with regard to the application.

Application for a New Premises License

The applicant's agent, Ms Silvester, stated that the applicant had already offered to place numerous measures in place in respect of the premises and that the Police had offered no objections to the application. The applicant had been under the impression that the premises had a license for the sale of alcohol when he purchased the shop but the licence had been surrendered by the former owner in November 2012. The applicant had worked in off licences for three years, mainly in the Ilford area.

Currently, the premises did not open before 7am but the applicant might decide he wished to open earlier to meet the requirements of people going to work before that time and stay open for people returning later from work. Other shops in the vicinity were already licensed until 11.00pm. The Police had not objected to the proposed timings.

The applicant would train all his staff in respect of the law relating to the sale of alcohol and provide refresher training, would refuse to serve anyone who was drunk or under the age of 18 or appeared to be buying alcohol for anyone under 18, would operate Challenge 25 and install CCTV to Police standards and recordings stored for a period of at least 30 days and made available to the Police if required. He would also place notices on the premises asking customers to leave quietly and would regularly clean up outside the premises. The

applicant would take all steps to ensure the previous poor management of the premises did not recur.

Building works to modernise the premises had not commenced before 9am or extended beyond 6pm to keep disturbance to neighbours to a minimum.

The applicant had not had any alcohol related problems in the premises where he currently worked.

Questions to the Applicant

In response to questions asked by the representor and the Sub-Committee the applicant stated that:

- There had been no problems, alcohol related or otherwise, at the premises he worked in at Ilford;
- He anticipated that alcohol would account for approximately 20% of the sales from the premises;
- He would be running the premises on a day-to-day basis.
- Although his family still live in Ilford, he lives above the shop and has a view to move his family to Northampton in due course

Representations by the Objector

Mr Labrum stated that the premises were in a residential area and was the only shop on his side of Main Road, Duston. Other shops were in a commercial area further along and on the opposite side of the road. He and his family had experienced anti-social behaviour, vandalism, noise, litter, abuse and illegal parking relating to the premises. He also referred to the noise arising from the cooler units at the back of the shop and from building works continuing in the back garden of the premises which presented noise nuisance and to a major problem with the shop's drainage which regularly flooded his back garden. He stated that the shop had been open beyond the permitted terminal hour during the five months previous to the hearing. He also referred to signboards which had been placed outside the premises and which had caused an obstruction, which he had photographed but did not produce any photographs to the committee

Mr Labrum stated that he was not convinced that the shop management would be sufficient to prevent the continuation or re-occurrence of these issues and did not believe the premises would be kept in a better condition than under previous owners.

Mr Labrum referred to there being six premises in the vicinity which already sold alcohol and referred to a planning application which might lead to a seventh. The Council's Solicitor stated the planning application was not a relevant consideration. Mr Labrum stated that the premises were in a residential area and asked where the client base would be for the sale of alcohol. He stated that other shops in the area closed at 9pm. He also queried who would train the staff who would work in the shop.

Mr Labrum referred to the Police's campaign against late night drinking, mainly in the town centre, and considered that this should also apply in residential areas.

Mr Labrum stated the shop had been closed for the six months prior to the hearing and that this had greatly improved the local environment. He stated that the shop was devaluing his property and that action needed to be taken to address the damage and distress which would be a burden on the local community again if the premises re-opened, particularly as

there had been violent episodes previously when the premises had been open. The Solicitor advised the Sub-Committee that any previous issues of anti-social behaviour should not be considered if they were in relation to completely different unrelated premises licence holders.

Mr Martin was not present but his objection stated that he had lived near to the shop since 2000 and had experienced significant disruption since the original owners sold the premises. He stated that numerous incidents, which had been reported to departments such as Environmental Health, during the recent refurbishment of the shop also raised concerns.. He also stated that the sale of alcohol to persons under the age of eighteen from the premises was well-documented and led to anti-social behaviour, which impacted on public safety and nuisance.

Mr Martin's objection stated that during the recent period when the premises had been closed for refurbishment but other local outlets were continuing to sell alcohol he did not experience any extreme noise, anti-social behaviour or property damage. However, in the short time the premises had been open, this behaviour had returned, even before the application for a premises licence had been heard, which Mr Martin stated could only be due to the capacity of the management of the premises.

Mr Martin's submission drew attention to the number of other premises in the vicinity which currently sold alcohol and did not believe that another outlet for the sale of alcohol in the vicinity was required. He stated that permitting the premises to sell alcohol for the hours applied for (06:00-23:00 Monday-Sunday) would not meet the statutory licensing objectives and would impact on the local community's environment, health and well-being.

Questions to the Representor

In response to a question asked by the applicant's agent the representor (Mr Labrum) stated that he had not make a complaint about the signboard obstructing the pavement as it had not impinged on his property. He considered it had been a problem for school children using the pavement and had obstructed sight lines.

In response to comments made by the representor, the applicant's agent stated that although the application was for the premises to remain open until 11.pm each evening whether the shop did so or closed earlier would depend on demand. She stated that the applicant was seeking the same terminal hour as other premises in the vicinity, although some of those shops closed at 9pm, they were licensed till 11pm

Summing up by the Representors

Mr Labrum stated that as a neighbour he was concerned about the proposed hours and his experience of the management of the premises.

Summing up by the Applicant

The applicant's agent summarised the case she had made.

There being no further questions, the Sub Committee adjourned at 1.20pm to make a decision. The Solicitor was called for advice.

The Determination

The Sub-Committee considered the application for a Premises Licence for 244 Main Road, Duston, Northampton made by Ms Debra Silvester on behalf of Mr Vijayaasingham (the

applicant).

The Sub- Committee noted that there had been representations made by

- Mr Labrum
- Mr Martin

based on the prevention of Crime and Disorder, Public Safety, the prevention of Public Nuisance and the Protection of Children from Harm.

The Sub-Committee was fully aware that the hearing was just to address the sale of alcohol only.

The Sub-Committee heard all the representations made by all those who spoke and considered all the written submissions.

It was noted that although concerns had been raised about anti-social behaviour in the area, no evidence of this had been seen and no representations were made by the Police. Similarly there no representations have been made by Environmental Health in relation to Public Nuisance or from Social Services in relation to the Protection of Children from Harm.

Upon taking all this into consideration, it was decided to Grant the application for the sale of alcohol between the hours of 6am and 11pm on Monday to Sunday.

However, the Sub-Committee wishes to place the additional following condition on the licence:

There must be at least one Personal Licence Holder at the premises when the sale or supply of alcohol takes place.

The reason for this decision was that the Sub-Committee felt that even after the concerns raised by the objectors, the Applicant had demonstrated a great number of steps which showed that on the balance of probabilities, he would uphold and promote the four licensing objectives. However, the additional condition was placed in order to re-enforce suitable management of the premises.

Should any of the objectors suffer from any issues at a later date, which do not adhere to the four licensing objectives, the law does allow them to call a Review of the Premises Licence.

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 1:56 pm