

NORTHAMPTON BOROUGH COUNCIL

LICENSING SUB-COMMITTEE

Thursday, 31 October 2013

COUNCILLORS: Councillors Hill, Duncan and Hibbert

OFFICERS: Phillip Bayliss (Senior Licensing Officer)
Mehboob Kassam (NBC Solicitor)
Nathan Birch (Democratic Services Officer)

THE APPLICANT: Paul Maylunn, trading Standards

**RESPONSIBLE
AUTHORITIES:** Sgt Mark Worthington, Northamptonshire Police

1. PREMISES LICENSE REVIEW - EURO EXPRESS, 114-116, ABINGTON STREET, NORTHAMPTON NN1 2BP

The Chair noted that the licence holder, nor any representative of them, was present. The Licensing Officer confirmed that the Notice of Review had been applied on September 13th 2013 and four letters confirming the details of the hearing had been issued by 1st class post. No response to any of this correspondence had been received from the licence holder. In light of all statutory notices and correspondence being served in time the Committee agreed to proceed with the hearing.

2. INTRODUCTION BY THE LICENSING OFFICER

Mr Bayliss, the Licensing Officer, introduced the reports and outlined that this was a Review of the Premises Licence for Euro Express, 111-116 Abington Street, Northampton. The Review had been called for by Trading Standards.

3. PRESENTATION BY THE APPLICANT -TRADING STANDARDS

Mr Maylunn explained that he wished to outline the case and reasons for the Review in open session, but in light of any potential prosecutions he requested that as per the Licensing Act 2003, Section 14(2), the public be excluded for the remainder of the evidence. Trading Standards had called for a Review of the Premises Licence as they did not believe the Licensing Objective regarding the Prevention of Crime and Disorder was being upheld. Trading Standards officers had visited the premises between January and July 2013 and found the premises on each occasion to be selling cigarettes that they believed to be counterfeit and/or smuggled. The cigarettes in question were being sold at £4.50 per packet, when the same original and duty paid cigarettes should retail at between £7.50 - 8.00 per packet. They believed this was clearly an illegal operation with significant effects on local business, including the loss of parallel sales, a loss of revenue to Customs and Excise and an increase in public health issues from the sale of cheaper tobacco.

3A PRESENTATION BY THE APPLICANT -TRADING STANDARDS (PART II)

RESOLVED: To exclude the public under Licensing Act 2003, Section 14(2) for the remainder of Mr Maylunn's evidence.

4. REPRESENTATION BY A RESPONSIBLE AUTHORITY - NORTHAMPTONSHIRE POLICE

Sgt Worthington presented the representation of Northamptonshire Police as set out in the papers. The Police had reports of two separate incidents of sales to drunk individuals. The first had occurred in June 2013 when two drunken individuals were seen to be served from the premises by PCSO Earl. Sgt Worthington explained that the PCSO had challenged the staff in the store and they had agreed the customers were drunk, but under law the PCSO did not have the power to issue a Penalty Notice for Disorder (PND) regarding the offence. The second incident was on 16th September 2013 when PC Clabby had witnessed another sale to a drunk individual and had issued a PND and caution to the seller. PC Clabby had also ascertained from a member of staff at the premises that Designated Premises Supervisor (DPS) Mr Durmaz was no longer part of the business.

PC Bryan had spoken with the owner regarding the DPS and applying for a Premises Licence Variation, but nothing had been forthcoming. PC Bryan had noted various breaches of the Licensing Conditions for the premises including lack of staff training; lack of training records; CCTV only available for 24 hours after recording; no staff, including the owner, trained to use the CCTV system; blocked escape routes; lack of notices regarding noise when leaving; Challenge 25 not being operated; lack of refusals register. PC Bryan had issued a Closure Notice on 20th September 2013, but the owner had not responded to this. Sgt Worthington submitted that they there had been drunk sales, conditions on the licence were being ignored and the Police did not see any other conditions that could be applied. Together with the Trading Standards evidence this suggested to him that revocation of the Premises Licence was the only option.

5. PRESENTATION BY A RESPONSIBLE AUTHORITY - NORTHAMPTONSHIRE FIRE AND RESCUE

Northamptonshire Fire Rescue were unable to attend the hearing due to operational requirements, but had asked via the Licensing Officer that the Committee particularly consider the final paragraph of the written submission. Namely that there was "minimal fire safety management" and that the owner was "unaware of their obligations to look after staff and customers in respect of fire."

6. SUMMARIES

The applicant was invited to present their summary by the Chair. Mr Maylunn explained that the premises had been open for 2 years and the issues outlined today had been clearly identified to the owner by the authorities concerned. There continued to be concerns around a situation that did not seem likely to change and that the Licensing Objective of the Prevention of Crime and Disorder was not being upheld. There seemed to Trading Standards no option other than to revoke the Premises Licence.

7. DECISION

RESOLVED - The Committee has considered the evidence submitted by Trading Standards, the Police and the Fire & Rescue Service and notes that the owner and license holder of the premises has made no representations to the contrary.

The Committee, being satisfied that notice of the hearing had been served within the statutory guidelines and that it was not in the public interest to adjourn the hearing, had decided to proceed.

The Committee felt unanimously, in view of the serious and repeated breaches of the Licensing Act 2003, that on the balance of probability the current operation of the premises is not promoting the Licensing Objective of the Prevention of Crime and Disorder. Therefore, the Committee has decided that the premises licence be revoked, the revocation being deemed to be both appropriate and proportionate. The Committee has also decided that the named Designated Premises Supervisor be removed.

The solicitor was called to give legal advice on the Licensing Act 2003, the legal test to be applied and the options available before the Committee.

The licence holder has the right of appeal against the decision, the appeal to be lodged within 21 days of notification of the decision.

RESOLVED: To maintain Part II of the Trading Standards evidence as exempt from publication, by virtue of Schedule 12(7) of the Local Government Act 1972.

The meeting closed at 12:07

Minute Item 3a

By virtue of paragraph(s) 7 of Part 1 of Schedule 12A
of the Local Government Act 1972.

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