

NORTHAMPTON BOROUGH COUNCIL

LICENSING SUB-COMMITTEE

Thursday, 27 February 2014

COUNCILLORS: Councillors Malpas (Chair), Duncan and Hibbert

OFFICERS: Mohammed Rahman, Solicitor
Phillip Bayliss, Senior Licensing Officer
Nathan Birch, Democratic Services Officer

FOR THE APPLICANT: PC Bryan, Northamptonshire Police
Sgt Worthington, Northamptonshire Police

FOR THE RESPONDENT: Vimal Odedra, Designated Premises Supervisor
Nirmal Odedra, Personal Licence Holder
Samir Bimra, Personal Licence Holder
Ellis Sareen, Barrister
Wendy Gutheridge, Solicitor

1. WELCOMES

The Chair welcomed everyone to the meeting and introduced the Councillors and Officers present.

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2. DECLARATIONS OF INTEREST

Councillor Hibbert advised the meeting that he had previously carried out consultancy work on behalf of the Turbervilles, the respondents Solicitor, but had never dealt with the Uxbridge office they had instructed, nor had any previous contact with Ms Gutteridge. No party present had any objection Councillor Hibbert considering the matter.

3. PREMISES LICENCE REVIEW - LONDIS, 70 KING EDWARD ROAD, NORTHAMPTON NN1 5LU

Introduction by the Licensing Officer

The Senior Licensing Officer outlined the purpose of the hearing and explained that on 6th January 2014 an application was received for a Review of the Premises Licence in respect of Londis Store, 70 King Edward Road, Northampton from Northamptonshire Police. The application for Review had been submitted on the grounds of upholding the Licensing Objectives, namely 1) the Prevention of Crime and Disorder and 2) the Protection of Children from Harm.

The Police evidence regarding test purchases was included in the papers submitted. PC Bryan would address the Sub-Committee in relation to the evidence. The Senior Licensing Officer explained that which would be followed by any questions from the Sub-Committee

and then any questions of clarification to Sgt Bryan from the Licence Holder.

Mr Sareen would be given the opportunity to put the case for the Licence Holder to the Sub-Committee, followed by questions from the Sub Committee led by the Chair. PC Bryan will then have the opportunity to question the Licence Holder on any points of clarification.

Both the Police and the Licence Holder would be given an opportunity to sum up before the Sub-Committee retire to make their decision.

The decision of the Sub-Committee would be given following their deliberations.

Application for Review by a Responsible Authority – Northamptonshire Police

The Chair invited PC Bryan to present the case for the Review on behalf of Northamptonshire Police. PC Bryan explained that Northamptonshire Police had carried out two age test purchases of alcohol on 7th August and 25th October 2013. On both occasions there had been sales to 16 year olds and the servers in the shop, neither of whom were Personal Licence Holder, had been issued with a Penalty Notice for Disorder. Two under age sales within 3 months constituted the offence of Persistently Selling Alcohol to Children and a Review had therefore been requested to uphold the Licensing Objectives of the Prevention of Crime and Disorder and the Protection of Children from Harm.

In response to questions from the Sub-Committee PC Bryan added:

- that test sales usually took place in the evening and the October one was at 8:40pm.
- during the first purchase he was not aware if a Personal Licence Holder or Designated Premises Supervisor (DPS) was present.
- no other incidents of underage sales had been recorded.
- there had been one incident of a proxy sale in November 2012 following a failed underage test purchase. The Police do not prosecute in Proxy Sale test purchases, but advise the business accordingly.
- any delay in the Review coming forward would have been down to the caseload of the officers.

In response to questions from Mr Sareen PC Bryan added:

- that the Police had spoken to Mr Kishore Odedra regarding the failed proxy sale.
- it would be normal procedure to fine the seller at the time and notify the DPS at a later date by letter, but they did not have a copy of any notification available for the hearing.

Representation by the Licence Holder

The Chair invited Mr Sareen, Counsel for the Licence Holder, to address the Sub-Committee. Mr Sareen explained that this was a family business of 30 years standing and the family had another 15 years' experience with two other premises. Other than those incidents reported today there had been no other in 45 years of trading. This was a successful business that had always cooperated with the Licensing Authority. The business in question was in a residential area, with a school nearby and sales to pupils had never

been an issue. Mr Sareen explained that none of the Odedra family present today had been made aware of the 2012 proxy sale.

With regard to the incidents currently under review Mr Sareen explained that in the first purchase Mr Vimal Odedra's wife had made the sale. Due to embarrassment she had paid the fine personally and had not informed anyone else at the business about the failed test purchase. The DPS had not received the Police notification of the incident sent via the post. At the time of the second sale Mr Nirmal Odedra had been present in the office and was made aware of the sale. The fine had been paid from a business account, but unfortunately the Court Service had not passed confirmation of the payment to the Police. Evidence of the payment had now been seen by the Police.

Mr Sareen explained that as a successful business had become complacent with its procedures around training. They could obviously no longer rely on their informal training scheme. Since the second sale the business had purchased additional training materials and intended to train all staff to Personal Licence Holder standards. An additional number would also sit the exam to become Personal Licence Holders. There had also been an upgrade of the CCTV system, along with two staff always being on duty. This would also allow for more robust challenges to potentially underage customers. The business had always maintained a refusals book. Documentation pertaining to all these changes was shown to the Sub-Committee. Mr Sareen expressed the view that the business was now better prepared and staff had the confidence to carry out checks. The business had also added the Challenge 25 protocol to their procedures.

Approximately 16% of the business sales were alcohol, but the availability added to the customer choice and added ancillary sales of other products. The alcohol licence was in fact vital to the business viability. The Licence Holder was happy to add the Challenge 25 protocol as a condition of the Premises Licence.

In response to questions from the Sub-Committee Mr Sareen supplied the following information on behalf of the Licence Holder:

- the DPS had not been informed of the August test purchase failure.
- the August fine had been paid on a personal debit card.
- it was agreed there are other shops in the immediate area.
- the October sale had been carried out by a cousin who was working temporarily at the time. She had previously refused sales, but failed to do so on this occasion.
- all staff would be trained to Personal Licence Holder level, with two additional staff becoming Personal Licence Holders, taking the total employed Personal Licence Holders to five.
- the agreement reached with Northampton School for Boys related to sales of tobacco to anyone in school uniform.
- there was a possibility that the Police letter regarding the first sale had been seen and removed by the individual concerned.

In response to questions from the Police Mr Vimal Odedra supplied the following information;

- he confirmed his knowledge of the Licensing Objectives.

- it was confirmed that sales of alcohol accounted for 16% of the business.
- it was confirmed that the business operated the Challenge 25 policy and all staff understood how this operated.

Summaries

Applicant – Northamptonshire Police

PC Bryan summarised the case on behalf of the Police. There was an acceptance that the business had responded to the failed test purchases and introduced new measures. The Police believed that revocation was a suitable sanction, but accepted that suspension could also be seen as a deterrent. He suggested that if the Sub-Committee could also take the opportunity to add conditions to the Licence, such as the Challenge 25 procedure, the use of an Electronic Point of Sale (EPOS) till system and that a Personal Licence holder be present at all times.

Respondent – Licence Holder

Mr Sareen summarised the response on behalf of the Licence Holder. He suggested that having a Personal Licence holder present at all times during 18 hour working days may prove difficult. While the Police may have requested revocation, he suggested that the speed with which the case had been brought did not suggest they believed this business was of immediate concern. Mr Sareen again suggested that this was a case of complacency from a business with a previous good record. The business had accepted their systems and procedures had become inadequate and taken measures to rectify the situation. The business did also already have an EPOS till in place. No procedures could give a guarantee, but with all the new systems this would be as close as possible. The Licence Holder was happy to accept conditions including Challenge 25, EPOS till and full training and records.

The meeting adjourned at 10.34 and reconvened at 11:23

Decision

The Sub-Committee had considered the Review of the Premises Licence for Londis, 70 King Edward Road, Northampton, called for by the Northamptonshire Police on the grounds of Prevention of Crime and Disorder and the Protection of Children from Harm.

The Sub-Committee has considered the arguments raised by all parties, by hearing all representations from PC Dave Bryan of the Police and from Mr Sareen on behalf of the Premises Licence Holder.

The primary issues taken into consideration were the two under age sales within a period of three months, August 2013 and October 2013.

The Sub-Committee had considered this is a very serious matter, and there was a serious potential for risk of harm to children which this authority did not take lightly.

This authority had a duty with regards the sale of alcohol, to both residents and those who visit the Borough.

The Sub Committee had given consideration to the fact that premises licence holders had taken steps to improve the management of the premises and gave weight to the letters from Musgrave and Vizzo with regards to training and CCTV installation.

The Sub Committee were also impressed that there was an agreement with the local school that no youths are to be served any age restrictive products.

The Sub Committee had considered the Police's suggestion that they had informed the DPS and Premises Licence holder of both the failed test purchases and commented that they were disappointed that there was no verification from the Police available whether these letters had in fact been delivered or not, to inform of the incidents.

The Sub-Committee had taken advice and considered the s182 guidance, in particular points 11.26 and 11.27 and taken on board that the need to work to uphold and promote the licensing objectives and work for the interests of the Community.

The Sub-Committee had considered a suspension for this premises licence, but given the efforts already made by the Odedra Family and their demonstration of the understanding of the Licensing Objectives, had concluded that placing conditions on the Premises Licence would be more appropriate and proportionate.

The following Conditions are to be placed on the Premises Licence:

1. A till prompt must be in place every time a sale of alcohol is to be made
2. The Premises must adhere to the Challenge 25 Policy
3. CCTV must be installed which is compliant with the DPA requirements, and footage must be made available on request by an authorised officer.
4. Refusals record to be maintained and kept up to date. This can be either electronic or a hard document and must be made available on request by an authorised officer.
5. Training records including those trained and when must be kept up to date and made available to an authorised officer on request
6. A Premises Licence Holder must be present when any licensable activity takes place after 15:00.

In terms of the last condition, the Sub-Committee considered the long hours the premises is open. Therefore, the Sub-Committee felt it is more manageable and appropriate to have the condition only after 15:00

The Sub-Committee felt these were appropriate and proportionate measures to ensure the Premises Licence holder continues to uphold the Licensing Objectives.

All parties were informed they have the right to appeal this decision to the Magistrates Courts if they felt necessary within 21 days.

The meeting concluded at 11:26 am

