

NORTHAMPTON BOROUGH COUNCIL

LICENSING SUB-COMMITTEE

Tuesday, 29 November 2016

- COUNCILLORS PRESENT:** Councillors Sargeant, Ansell and Flavell
- OFFICERS:** Mebs Kassam (Solicitor), Ruth Austen (Environmental Health Manager), Dan Kalley (Democratic Services Officer)
- FOR THE RESPONSIBLE AUTHORITY:** PC Chris Stevens (Northamptonshire Police), Liz McCarthy (Environmental Health)
- FOR THE REPRESENTORS:** Mr John Birch, Mr Nusret Semsoglu (Premises Licence Holder), Mr Enis Semsoglu (Designated Premises Supervisor)

1. WELCOMES

The Chair welcomed all parties to the meeting and outlined the procedure of the hearing.

2. DECLARATIONS OF INTEREST

There were none.

3. REVIEW OF PREMISE LICENCE - MILLENIUM PIZZA AND KEBAB, 8 ABINGTON SQUARE

The Environmental Health Manager outlined the case and stated that the Licensing Authority had received an application for review of the premise licence of Millennium Pizza and Kebab, 8 Abington Square on 5 October from the Police. These objections were raised on the grounds of prevention of crime and disorder and public safety. In addition Environmental Health had also submitted an objection, along with comments from the Planning Department.

The Committee were made aware that there was CCTV footage in relation to the objection.

It was explained that the Committee would hear representations from the Police and Environmental Health, along with representations from Mr John Birch, on behalf of the premise licence holder.

RESPONSIBLE AUTHORITY

The Police Licensing Officer, addressed Members and stated that on behalf of the Chief Officer of Northamptonshire Police he had called for a review of the Premises Licence for Millennium Pizza and Kebab, Abington Square in relation to the Licensing Objective of the Prevention of Crime and Disorder. The Committee were informed that a previous Committee in December 2014 suspended the Premises Licence for five weeks and reduced the latest opening time to 4am. On 28 August 2016 the Police Licensing department received an email, stating that the CCTV control room had reported that the Premises in question were open and trading past their agreed licensed time.

The Committee were informed that the on 4, 10 and 11 September 2016, footage from the CCTV control showed the premises as trading past 4am. On 17 September 2016 the body worn footage from an officer was recorded and showed the premises open past the licensable hours and staff members serving hot food.

The Police Licensing Officer commented that the person in charge of the premises on 17 September, admitted that the premises were open past 4am. In interview the designated premises supervisor stated that he finished work at midnight and was not aware that the premises were trading past 4am. The Premises Licence Holder was interviewed last, where he admitted that he had kept the premises open past the licensable hours in order to increase his profit margins.

Members of the Committee were made aware that the Magistrates Court had found the Premises Licence Holder guilty of four counts of Section 136 Licensing Act offences and one offence relating to Section 57(4) of the Licensing Act. The punishments involved the Premises Licence Holder having a criminal record and being issued with a £625 fine.

The Police Licensing Officer stated that, in the view of the Police, there were no conditions that could be imposed, which would satisfy their concerns. In addition he stated that the Licensing Committee needed to give due consideration to the licensing guidelines, in particular to section 11 (2) & (3), given concerns raised by the Planning Department.

In response to a number of questions from the Committee and the Respondent, the Police Licensing Officer stated:

- Confirmation that the licensed hours weren't on display, was stated in the Magistrates Court case and by the guilty plea from the Premises Licence Holder.
- All conditions stated in the notice of determination in 2014 had been adhered to, except for the breaking of the licensed hours.
- The Police needed to gather all available footage and information, before interviewing the Premises Licence Holder and deciding whether to press any charges.

In addition the Police Licensing Officer confirmed that he had spoken to Environmental Health with regards to the case. Furthermore, officers from Planning had given written representations, stating that planning application had not been granted in 2014.

The Environmental Health representative stated that the department had raised representations based on public safety. Members of the Committee were informed that the Premises Licence Holder had been given a caution, after failing to comply with three Hygiene Improvement Notices dated 3 March 2016. In response to questions from the respondent, Environmental Health commented that they wouldn't have brought an application for review by themselves.

RESPONDENTS

Mr John Birch, on behalf of the Premises Licence Holder stated that in his view the Police should have taken action earlier, after they became aware of the first offence. By only interviewing the Premise Licence Holder on 27 September the Police allowed for further incidents to occur. He stated that planning considerations should not form a part of the representations made and urged the Committee to disregard them.

In summing up he commented that although the Premise Licence Holder broke the licensable time, there was no evidence to suggest that any crimes had been committed. At no stage had there been any victims associated with this breach. Furthermore, running a kebab shop opening late nights was a tricky job and those staff working in the premises should be commended.

In relation to the previous notice of determination in 2014, the representor explained that all

conditions outlined had been complied with and adhered to. This showed that the Premise Licence Holder listened to concerns raised by the responsible authority in 2014.

He commented that any further punishments would have a severe effect on the Licence Holder and his ability to support his family.

In summing up the Police Licensing Officer stated that the Magistrates Court had already found the Premises Licence Holder guilty of the offence and of breaching the Prevention of Crime and Disorder licensing objective. The Licence Holder had failed to adhere to the licensable hours, as agreed to in 2014. In addition the Licence Holder had already admitted guilt in keeping the premises open longer than he was legally allowed too. In addition, there were no conditions that could be imposed that would satisfy the Police.

RESOLVED:

The Chair thanked everyone for attending the licensing committee to consider the review of the premises licence for the Millenium pizza and kebab Northampton, nn1 4aa

The review was called by a responsible authority namely the police under the licensing objectives of the prevention of crime and disorder under section 51 licensing act 2003. Environmental Health also made representations.

The committee have carefully considered the review application, representations from the police, environmental health the representative for the premises licence holder and the designated premises supervisor

The sub committee have therefore decided unanimously that on a balance of probability the current operation of the premises is not promoting the licensing objective of the prevention of crime and disorder.

Therefore it is considered by the committee that the following is appropriate and proportionate under section 52 licensing act 2003

1) to suspend the premises licence for 4 weeks

The sub committee received legal advice in terms of:

- 1) the licensing objectives
- 2) the legal test to be applied
- 3) the options available to the committee
- 4) section 182 guidance
- 5) the case of Bassetlaw

The reasons for the decision are as follows:

- 1) the committee were of the view that whilst the licensed hours had been breached this was low level breaches
- 2) the trading beyond the hours has not caused any congregation / assaults as a consequence
- 3) any other action would in the opinion of the councillors be disproportionate
- 4) there has not been any breaches of the other conditions on the licence
- 5) a 4 week suspension is sufficient punishment as the crime and disorder objective has been engaged due to convictions of the premises licence under section 136 licensing act 2003 for which he has been fined.

The premises licence holder is further warned that he must adhere to the operating hours within the licence, should the premises licence holder come before committee again then this warning will be referred to at any subsequent hearing and there will subject to evidence be a real risk of revocation of the premises licence.

Any persons aggrieved by this decision has a right of appeal to the magistrates court no later than 21 days from the date of receiving the decision notice

4. EXCLUSION OF PUBLIC AND PRESS

None required.

The meeting concluded at 12.02pm