

# NORTHAMPTON BOROUGH COUNCIL

## LICENSING SUB-COMMITTEE

**Tuesday, 29 May 2018**

**COUNCILLORS PRESENT:** Councillors Flavell (Chair) Beardsworth and Walker

**OFFICERS:** Clive Tobin (Solicitor)  
Jason Toyne (Licensing Officer)

**FOR THE APPLICANT:** Mr Byatt

**FOR THE REPRESENTORS:** Ms Pam Williams

### **1. WELCOMES**

The Chair welcomed everyone to the meeting.

### **2. DECLARATIONS OF INTEREST**

There were none.

### **3. NEW GRANT PREMISES LICENCE APPLICATION - EURO FOODS PLUS, 167 ST JAMES ROAD**

The Licensing Officer outlined the report for an application for the new grant of a premises licence by Mr Amed Ismael Khudhur in relation to a premises at 167 St James Road, Northampton. The Licensing Enforcement Officer outlined the procedure for the hearing.

Mr P Byatt – Licensed Intuition (the applicants' representative) explained that the premises was a former bank and had been identified as a space for a grocery store with an off-licence. He noted that a risk assessment had been undertaken and formulated them against the Licensing Objectives and informed the Committee that his client had worked closely with the Police and explained that they, as a responsible authority, had not objected to the application.

Mr Byatt reported that in accordance with the Licensing Objectives, his client had proposed a number of conditions on his license which included:

- A fully working and maintained CCTV system
- Staff training to be undertaken; specifically staff would be trained prior to the premises being opened and every 12 months thereafter.
- Clear notices displayed to remind customers not to drink within the vicinity of the premises.
- No beer, lager or cider above 6% abv to be sold
- Challenge 25 scheme

Mr Byatt further noted that he was compliant with the 2 conditions proposed by Public Health. He explained that the proportion of goods to alcohol was relatively small and reiterated that neither the Police, nor Public Health had objected other than the proposed conditions referred to in the report.

### **Questions to the applicant:**

In response to questions asked by the Sub Committee Mr Byatt confirmed the following:

The premises was independent and was not a family business  
There would be a minimum of 2 employees on the premises at all times, his client being the designated premises supervisor.  
Mr Byatts client had experience of working in the industry

The Solicitor questioned a disparity between proposed conditions relating to staff training.

### **Respondents:**

Ms P Williams spoke on behalf of St James residents association and explained that she had been a resident for 46 years and noted that there were no concerns about the premises selling food, but the proposed alcohol sales between 8am and 11pm was excessive. She commented that the area had experienced problems with prostitution, litter, alcohol and drug abuse, homelessness and begging. She referred to the removal of benches and flowerbeds which were removed by the Council on the advice of Police to deter undesirables from congregating. It was explained that there was a school in close proximity and an alleyway nearby that was used by homeless people and street drinkers to defecate and stated that St James' already had an abundance of licensed premises and to grant a further one would exacerbate the problems experienced by residents.

### **Questions to the respondents:**

In response to questions asked, Ms Williams confirmed the following:

As the representative of the Residents Association she was representing between 10-30 people

There were numerous licensing premises (including off licences) in the vicinity of the applicants premises and referred to the numerous premises which were circled on a map and highlighted more, smaller premises, that she did not think had been included.

### **Summing up by the applicant:**

Mr Wyatt commented that there was currently no Cumulative Impact Zone (CIZ) in the area and reported that the respondents had no evidence that granting the license would increase and contribute to the problems and depravity in the area.

Members retired at 10.57am to reach a decision and asked the Solicitor to join them.

The meeting reconvened at 12.05pm.

### **RESOLVED:**

The Licensing Sub-committee carefully considered the following:

- The application received from Mr. Khudhur ("the Applicant");
- The representations received from and on behalf of residents in the vicinity of the premises;
- The papers prepared for the hearing;
- Oral representations from Mr. Byatt on the Applicant's behalf;
- Oral representations from Mrs. Williams on behalf of those who made representations.

The Sub-committee received legal advice in relation to:

1. the options available to them under section 18(4) of the Licensing Act 2003;
2. the legal test to be applied in reaching a decision;
3. the fact that the demand for licensed premises and the strength of the Applicant's business plan were not a matter for the Sub-committee to consider;
4. the need to:
  - a. consider the likely effect of the premises on the licensing objectives if the application were to be granted;
  - b. determine whether the likely effect could be mitigated by adding conditions to the licence (either those suggested by the Applicant or otherwise); and,
  - c. ensure that any conditions attached focus on the likely effect are appropriate to promote the licensing objectives; and,
5. that the Sub-committee should only consider rejecting the application if the likely effect on the licensing objectives of granting the application was so great that conditions could not mitigate that effect.

The Sub-committee decided to:

- Grant the premises licence;
- Add the conditions suggested by the Applicant, subject to a number of amendments (which are set out below); and,
- Add the conditions suggested by Public Health and accepted by the Applicant.

The Sub-committee decided that a condition should be added to provide that the premises may sell alcohol between the hours of 12.00 noon and 10.00 p.m. from Monday to Sunday.

The Sub-committee decided to amend the Conditions suggested by the Applicant so that they will now read as follows:

a) General – All Four Licensing Objectives (b, c, d and e)

The licence holder shall operate and maintain a refusals register in respect of declined sales of alcohol where the attempted purchaser was suspected of being under 18 years of age or drunk. This register shall also be used to maintain a log of crimes, nuisance or anti-social behaviour at the premises.

The refusals register and log shall be kept on the premises and be made available immediately upon request to an authorised officer of the Police or Local Authority.

There will be no sales of beer lager, or cider over 6% ABV. No sales shall be made of single cans or bottles of beer, lager, ale or cider.

There shall be a minimum of 2 trained members of staff on duty at the premises at all times when the premises are open for the sale of alcohol.

b) The prevention of crime and disorder

CCTV

1. A fully working and maintained CCTV system capable of recording and storing high quality colour images must be installed on the premises. The system must record at all times the premises are open to the public and images must be stored

for a minimum of 28 days with date & time stamping. As a minimum this must cover all entry and exit points to the premises, and all areas inside the premises.

2. All recordings must be made available to an officer from a responsible authority immediately upon reasonable request and in line with the provisions of the Data Protection Act 1998. Any copies are to be provided at the premises licence holder's expense.

#### Staff Training

3. All staff will be trained in relation to the law regarding sale of alcohol. This training must be completed prior to them working in the premises and refreshed every 12 months as a minimum. A record of this training must be kept and maintained with a copy of the syllabus attached. The recipient of the training must sign to state that they have received and understood the training and this should be dated. Training records must be kept on the premises at all times and made available to an officer from a responsible authority upon reasonable request. \*

*\* Note: the nature and extent of training provided under this condition may vary dependent upon the specific role of the staff member concerned.*

#### Nuisance

4. Signs will be displayed at the exit points of the premises requesting that customers respect local residents by leaving and dispersing from the premises and immediate area quietly and in an orderly manner. Staff will take all practical steps themselves and work with Northamptonshire Police and Northampton Borough Council in deterring groups of people from gathering in the immediate area outside the premises and causing harassment, alarm or distress.

#### Age Verification

5. The premises will operate and adhere to an age verification scheme with the minimum standard of Challenge 25. Signs advertising the policy must be displayed in all areas where alcohol is for sale. Challenge 25 shall be included in relevant training referred to at 3. above.

#### Miscellaneous

6. Spirits may only be displayed behind the sales point and will not be advisable for self-service. No sales of spirits shall take place in quantities of less than 35 cl.

#### c) Public Safety

The premises will conform to all statutory health and safety requirements.

#### d) The prevention of public nuisance

Persons shall be discouraged from congregating outside the premises.

A notice will be placed immediately outside the main entrance reminding persons that no alcohol is to be consumed directly outside the main entrance to the shop or in its immediate vicinity.

#### Protection of children from harm

The challenge 25 scheme will be implemented.

To ensure that any person selling or supplying alcoholic drink under the authority of a personal licence holder follows the guidelines of the Challenge 25 scheme and asks for photo ID proof of age where they have reason to suspect that the individual may

be under 25 years of age and to ensure that signs relevant to this condition are prominently displayed at the premises.

The conditions suggested by Public Health, agreed by the Applicant and added by the Sub-committee are as follows:

1. There will be no window display posters or similar advertising containing and reference to alcohol on the premises shop frontage or the highway abutting the premises; and,
2. The premises licence holder will display at all times and in close proximity to all alcohol displays within the premises, the current Alcohol Guidelines produced by the UK Chief Medical Officers. The display content will be provided by the Public Health Team for display in A4 format.

The reasons for the Sub-committee's decision are as follows:

The Sub-committee has serious concerns about the impact of the application on residents in the area and notes the following:

- there is a problem with street drinking in the area;
- some street drinkers have caused a problem by begging in the vicinity of the premises;
- there is a problem with anti-social behaviour in the area, including urinating and defecating in the street;
- the location has a high number of vulnerable residents;
- there is an entrance to a children's nursery directly opposite the premises;
- there is also a small square close by which is used by many people;
- many people use a bus stop which is right outside the premises;
- the use of the nursery, square and bus stop is already impacted by anti-social behaviour related to street drinking in the area and is likely to be further impacted if the premises licence is granted.

The Sub-committee was therefore of the view that steps needed to be taken to protect the residents and others using the area and that the only way to do so was by limiting the hours when the premises may sell alcohol and imposing the modified conditions set out above. This would assist in limiting the problems caused by street drinking, particularly in the early morning and late at night.

**The Applicant or those who made representations may appeal against this decision to a magistrates court within 21 days of the date this decision is served on them.**

The meeting concluded at 12.16pm