

LICENSING SUB-COMMITTEE

Wednesday, 16th November, 2016

Present: Cllr Hambleton in the Chair

Councillors White and Spence

1. Review of a Premises Licence – Newcastle Food and Wine

Having taken into account the Licensing Act 2003 and the guidance issued under Section 182 of the Act, the Councils Statement of Licensing Policy and also the fact that Trading Standards have requested a review of the premises licence supported by Staffordshire Police and Environmental Health to promote the licensing objectives relating to the protection of children from harm and the prevention of crime and disorder.

The Committee have considered those licensing objectives in the light of what has been said and have listened to the arguments and are persuaded that in the light of the evidence before it, it is appropriate to take steps to ensure that the licensing objectives are promoted. In considering which of its powers to invoke the Committee had regard to the guidance at 11.19 and 11.20 which indicates that the Committee should seek to establish the cause of the concerns that the representations identify and that the remedial action taken should generally be directed at the causes and be no more than appropriate and proportionate. In particular where the cause of the identified problem relates to poor management decisions the Committee may consider appropriate action.

Trading Standards brought to the Committees attention that 2.22 of the guidance states that the Government believe that it is completely unacceptable to sell alcohol to children and that under 2.28 Licensing Authorities should give considerable weight to representations about child protection matters.

Trading Standards stated in evidence that the sale of alcohol by the Premises Licence Holder to a child volunteer had occurred on the 03 June 2016. This test purchase operation had been witnessed by an officer of Staffordshire Police. This being despite a visit on 02 March 2016 by Trading Standards staff to provide routine age restricted advice to the Premises Licence Holder.

Environmental Health stated in evidence that during a routine inspection at the premises on 03 July 2015 the Premises Licence Holder/Designated Premises Supervisor had failed to produce a refusals sales register in breach of his premises licence conditions. Staff training had also been identified as an issue.

On 03 August 2016 a further inspection had been conducted initially to “chase up” unpaid annual fees. The Premises Licence Holder was unable to produce staff training records, once again in breach of his licence conditions.

On 28 September 2016 the Premises Licence Holder was still unable to provide evidence of staff training despite earlier requests.

Further, Staffordshire Police had submitted a statement outlining complaints received relating to crime and disorder in and within the vicinity of the licensed premises.

In their defence the representative for the Premises Licence Holder stated that the licence holder had a lack of understanding about "Challenge 25" but that he now understands it and had put in place procedures and documentation to ensure that these problems would not arise again in the future.

The Committee considered the steps available to it to promote the licensing objectives in the interests of the wider community. This is of course a serious matter and revocation of the licence was considered as was the removal of the Designated Premises Supervisor but in view of the actions taken by the Premises Licence Holder it was decided, on this occasion, not to pursue those steps and give the licence holder the opportunity to prove that the premises can be run responsibly.

Protection of the public and in particular vulnerable children was however paramount as was compliance with the Licensing Act and premises licence conditions.

The Committee were therefore disposed to:-

Firstly, suspend the premises licence for a period of 6 weeks to enable the premises to embed the remedial actions proposed;

Secondly, to give the Premises Licence Holder a written warning about his future conduct and the possible ramifications of a further breach of licence.

Thirdly, to impose the conditions set out on pages 19 and 20 of the agenda with the addition of a condition that no single cans of alcohol (split from bound packs) be sold at the premises.

Any party aggrieved by this decision has the right to appeal within 21 days from the date of this decision to the Magistrates' Court. This decision does not therefore take effect until either after 21 days if no appeal is made, or until that appeal is disposed of.

LICENSING SUB-COMMITTEE

Wednesday, 18th January, 2017

Present: Cllr Hambleton in the Chair

Councillors White and Reddish

1. Application for a Premises Licence – Morrisons Daily Petrol Station

Having taken into account the Licensing Act 2003 and the guidance issued under Section 182 of the Act, the Council's Statement of Licensing Policy and also the fact that representations upon that application had been received from Staffordshire Police, Trading Standards, Environmental Health and other persons on the basis that to grant the application would undermine the objectives relating to the Prevention of Crime and Disorder, the Prevention of Public Nuisance, Public Safety and the Protection of Children from Harm.

The Licensing Sub Committee considered those licensing objectives in the light of what had been said and listened to the arguments and took into account that Staffordshire Police, Trading Standards and Environmental Health had entered into negotiations with the applicant and were prepared to withdraw their objections to the grant of the premises licence on the basis of an agreement that had been reached regarding a reduction in trading hours and the imposition of conditions to be referred to. The residents advised the Licensing Sub Committee that there was a possibility that they may suffer public nuisance, mainly in the form of noise and light intrusion, but having considered the points raised, it was felt that the majority of the concerns would be covered by the conditions proposed.

The Solicitor for the applicant drew to the Licensing Sub Committees attention paragraph 3.13 of the Council's Statement of Licensing Policy that there would be a presumption that the sale of alcohol would be licensed at all times that the premises were open for business unless the activity created a focus for disorder and disturbance. The guidance under Section 182 of the Act supported this also. The Daniel Thwaites case in 2008 held that all determinations of licensing applications should be determined on empirical evidence and not on speculative evidence and the Licensing Sub Committee also took into account the guidance at 9.39 which reiterated the fact that authorities' determination should be evidence based.

It was also stated in evidence that planning consent for the extended hours was yet to be obtained.

Having taken all of the issues into consideration, the Licensing Sub Committee were persuaded that it would not offend the licensing objectives to grant the application as amended in the terms agreed with the responsible authorities. The conditions which the Licensing Sub Committee were disposed to impose in addition to the relevant Mandatory Conditions and also conditions that were consistent with those listed by the applicant in the operating schedule (but not inconsistent with those imposed by the Licensing Sub Committee) are:

HOURS OF OPENING AND ALCOHOL SALES

0600 to 2400 Monday to Sunday

HOURS FOR LATE NIGHT REFRESHMENT

2300 to 2400 Monday to Sunday

AGREED CONDITIONS

Conditions agreed with the Police

Prevention of Crime and Disorder

1. CCTV must be installed and cover all public areas to the reasonable agreement of the Police. Access to the system should be allowed immediately to the Police or other authorised officers in accordance with the Data Protection Act where it is necessary to do so for the prevention of crime and disorder, prosecution or apprehension of offenders or where disclosure is required by law, and can be periodically inspected by the Police or other authorised officer to ensure that it continues to function and access must be granted to them upon request to facilitate such an inspection.
2. The CCTV system shall be capable of producing immediate copies of recordings on site. Copies of recordings will be capable of being recorded digitally on CD/DVD or other equivalent medium.
3. There should be a member of staff available at all times who is trained and capable of operating the CCTV system and also downloading any footage required by the police or other authorised officer in relation to the investigation of crime and / or disorder issues, upon request or within 24 hours of such request where it is necessary to do so for the prevention of crime and disorder, prosecution or apprehension of offenders or where disclosure is required by law and all should be kept for a 28 day period.
4. CCTV will be capable of providing an image which is identification standard.
5. The system will display, on any recording, the correct time and date of the recorded image.
6. The CCTV system will be maintained so as to be fully operational throughout the hours that the premises are open for any licensable activity. Daily checks to be made to check the operation of the CCTV system and confirm it is working correctly and such checks to be recorded in a register which is to be endorsed by the person conducting the check and to contain the name of the person conducting the check. This record is to be kept fully updated at all times and remain on the premises for immediate inspection by Police or other authorised officers upon request.

7. All cashiers shall be trained to record refusals in a refusals log. The log will contain:

- details of the time and date the refusal was made
- the identity of the staff member refusing the sale.
- details of the alcohol the person attempted to purchase.

This log will be available for inspection by a Police or other authorised officers on request.

8. An incident log shall be maintained to record:

- All incidents of crime and disorder occurring at the premises
- Details of occasions when the police are called to the premises.

This log will be available for inspection by a police officer or other authorised officers on request.

9. The main door to the premises will be fitted with an electronic locking device to be operated by staff when required when the premises are open for licensable activities.

Protection of Children from Harm

1. The premises licence holder will ensure that an age verification policy will apply to the premises whereby all cashiers will be trained to ask any customer attempting to purchase alcohol, who appear to be under the age of 25 years (or older if the licence holder so elects) to produce, before being sold alcohol, identification being a passport, Military ID or photocard driving licence bearing a holographic mark or other form of identification that complies with any mandatory condition that may apply to this licence.
2. All sales tills shall prompt the cashier making a sale of alcohol to verify that the customer is aged 18 or over.
3. All staff engaged or to be engaged in the sale of alcohol on the premises shall receive the following training in age restricted sales:

- Induction training which must be completed and documented prior to the sale of alcohol by the staff member.
- Refresher / reinforcement training at intervals of no more than 6 months.

Both initial and subsequent refresher training in relation to the sale of alcohol and Challenge 25 will contain a pass/fail test to be undertaken by the staff member which is dated. This can be written or electronic.

Training records to be made available on request to Police or other authorised officers.

Conditions agreed with Environmental Health

1. The premises including the forecourt area shall be monitored and managed to prevent people from congregating and causing anti-social behaviour/nuisance. Anyone causing a nuisance shall be asked to leave.
2. Regular litter patrols shall be conducted at the premises and forecourt so that litter is kept to a minimum so as not to cause a nuisance.

The conditions put forward by the applicant in the operating schedule were:

Prevention of Crime and Disorder

1. All staff engaged in the sale of alcohol will receive suitable training (including refresher training) in relation to the proof of Age "Challenge 25" scheme to be applied on the premises. The following forms of identification are to be acceptable: photo driving licence, passport, proof of age standards scheme (PASS) card, Military ID and any other locally or nationally approved form of identification.
2. CCTV shall be provided on the premises and shall be kept in good working order.
3. All checkout operators will operate a refusals log.

Public Safety

1. The premises holder will undertake ongoing risk assessments in order to comply with Health and Safety Legislation.

The Prevention of Public Nuisance

1. The premises are responsibly managed and supervised.

The Protection of Children from Harm

1. All staff engaged in the sale of alcohol will receive suitable training (including refresher training) in relation to the proof of Age "Challenge 25" scheme to be applied on the premises. The following forms of identification are to be acceptable: photo driving licence, passport, proof of age standards scheme (PASS) card, Military ID and any locally or nationally approved form of identification.
2. Till prompts are in use at the store.

It is also recommended that the applicant discuss the question of light intrusion into properties in the vicinity with both Environmental Health and local residents in order to ascertain whether there was some measure that could be taken to alleviate the problem. The Licensing Sub Committee believed that the applicant had no problems with this.

Any party aggrieved by this decision has the right to appeal within 21 days from the date of this decision of the Magistrates' Court.