

LICENSING SUB-COMMITTEE

Tuesday, 29th May, 2012

Present:- Cllr Welsh – in the Chair

Councillors A Heames and S White

1. **APPLICATION FOR A REVIEW OF A PREMISE LICENCE - CROSS HEATH NEWS**

Resolved: The parties having made a joint application to the Sub-Committee for an adjournment of this matter and the Sub-Committee considering that it was necessary in the public interest; the Sub-Committee, in accordance with regulation 11 of the Licensing Act 2003 (Hearings) Regulations 2005 were disposed to adjourn the application for 10 working days from the date of the hearing in order to allow the parties time to reach an agreement.

2. **APPLICATION FOR A REVIEW OF A PREMISE LICENCE - BARGAIN BEERS AND WINES**

Having taken into account the Licensing Act 2003, the guidance issued under Section 182 of the Act and the Councils Statement of Licensing Policy and also the fact that Trading Standards had requested a review of the premises licence to promote the licensing objective relating to the Prevention of Crime and Disorder.

The Committee considered the relevant Licensing Objective in the light of what had been said and were persuaded that action did need to be taken by the Licensing Authority under its powers to promote the Licensing objectives.

In view of the evidence given, the poor management of the premises was a direct reflection of poor business practise and policy and reflected upon the Designated Premises Supervisor.

The Committee was very concerned about the undermining of the licensing objective relating to Crime and Disorder and the Secretary of State in his guidance at 11.29 considered that the sale of smuggled tobacco and alcohol should be treated as particularly serious.

Substantial evidence was given that the business had failed to uphold the Crime objective in that bottles of Arctic Ice Vodka were being sold at the premise which was over 26 times the limit for methanol which rendered the product so contaminated that it was unfit for consumption. The alcohol by volume being 51.6 per cent instead of 37.5 per cent as stipulated on the labelling of the bottle.

The Committee were also concerned about the possession for supply of illicit alcohol at the premises as it placed the public health at risk.

It was clear from what had been said that the current DPS purchased the illegal goods for supply and such had been admitted by the Premises Licence holder.

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The guidance at 11:20 provided a range of powers for the Licensing Authority to exercise for the promotion of the Licensing objectives. Firstly, the Committee could modify the conditions of the licence.

Conditions had been put forward by Trading Standards as being necessary and proportional and the Committee considered these. Other options open to the Committee as set out in the guidance included the removal of the DPS, the revocation of the licence and the suspension of the premises licence for up to 3 months. In view of what has been said the Committee considered all these options.

Firstly, the Committee considered removal of the DPS in view of poor management decisions but in view of the mitigation put forward that such action would in effect close the business it decided reluctantly to give the current DPS another chance.

The Committee's consideration of the power of revocation was dismissed for similar reasons. Informally the Committee warned that should there be any re-occurrence of the offence then it could take an entirely different view.

The Committee then considered exclusion of the licensable activity for a Temporary period of 3 months. The Committee were aware as to the long term stability of the business and detrimental financial impact that may result from removal of the licensable activity. However, it did consider that the premises had been found to be trading irresponsibly and that in view of the serious nature of the offence tough remedial action needed to be looked at which was necessary and proportional. The Committee considered that it was sheer luck that members of the public had not been harmed by the sale of the product.

The Committee were therefore disposed to:-

1. Suspend the premises licence for a period of 2 weeks to enable the premises to put in place the remedial actions proposed by Trading Standards.
2. Impose conditions set out on page 45 of agenda item 11 set out in the report.
3. In addition the Committee warned the licence holder that any further sales of/or supply of illicit alcohol could result in a further review of the premises licence and possible revocation of the licence.

Chair