

LICENSING PANEL

WEDNESDAY, 5 APRIL 2017

PRESENT:- Councillors Vera Tomlinson, Nadine Watts and Alan Bishop

An apology for absence was received from Councillor Malcolm Davies.

38. Appointment of Chair

Resolved – That Councillor Vera Tomlinson Chair this meeting of the Panel.
(Councillor Tomlinson took the Chair.)

39. Declarations of Interest

The Chair reminded Members of the need to declare any known interests in any matters to be considered at the meeting. No declarations were made.

40. Application to Review the Premises Licence in respect of Best Barbecue, 24 Victoria Road, Swindon, SN1 3AW

The Panel considered (a) a report of the Council's Licensing Manager setting out details of an application for a Review of the Premises Licence for Best Barbecue, 24 Victoria Road, Swindon, SN1 3AW, (b) written representations from Wiltshire Police in support of the review, (c) oral submissions in support of the application for a review received from PC Michael Diffin, M.B.E., (Police Licensing Officer), (d) oral submissions opposing the application received from Mr Mehmet Sancı (Premises Licence Holder) (e) questions from Members to the applicants and objectors and answers received, and (f) the Council's procedure for licensing hearings, the Secretary of State's Guidance and the Council's Statement of Licensing Policy.

The Council's Licensing Officer introduced the report noting that:

- The review of the Premises Licence had been called by Wiltshire Police on the grounds of the Prevention of Crime and Disorder.
- Since the application for the review the Premises Licence had been varied to remove the sale of alcohol. This meant there was no Designated Premises Supervisor and the sole licensable activity was the provision of Late Night Refreshments.
- The options available to the Panel in respect of the review.
- There was correspondence from the Council's Environmental Health Department within the Police submission but they had not made a formal submission to join the review process.

The Police case for a review and summary of points raised can be broadly summarised as follows:

- Police officers witnessed a breach of conditions 8, 9 and 10 of the Premises Licence during a visit on 11th November 2016.

- Mr Korkmaz (the Designated Premises Supervisor) confirmed to the Police that he was not involved in the management or operation of the premises.
- On 12th November 2016 a Closure Notice under Section 19 of the Criminal Justice and Police Act 2001 was served on the premises which were closed immediately.
- In the opinion of the Police, Mr Mehmet Sancı had no knowledge of his obligations under the Licensing Act.
- Mr Sancı had a history of confrontation with Police and Council Officers and had been aggressive and dismissive against them.
- Mr Sancı had been selling alcohol prior to obtaining a Premises Licence and only did so following discussions with the Police.

The Police answered questions in respect of:

- Incidents, public nuisance and/or breaches of the peace at the premises since November 2016.
- Mr Sancı's interaction with the Police since he started to operate the premises.
- The on-going request by the police to revoke the Premises Licence and their view that the lack of engagement by Mr Sancı was undermining the Prevention of Crime and Disorder Licensing Objective.

Points raised by Mr Sancı opposing the application for review included, but were not limited to:

- That he had operated the premises for 15 years and in that time there were only three incidents requiring police attendance due to trouble.
- When visited by the Police there were only two people in the shop, his father and a regular customer drinking alcohol.
- During the Police visit he asked them to wait for five minutes as he was busy serving a number of customers.
- The Police asked an employee who didn't speak English for a copy of the Premises Licence.
- There were eight or nine customers waiting to be served when an Environmental Health Officer visited the premises.
- He sold very little alcohol when he was licensed to do so.
- He had offered CCTV footage in respect of the incidents referred to by the Council and Police.
- His star rating had been downgraded because of a lack of staff training records.
- He was proud of his establishment and stayed until 04:00 hours cleaning up after the premises closed.
- He had lived in Swindon for 17 years and had never had a criminal record and tried to be law abiding.
- He accepted in Court offences at the premises relating to food hygiene.
- He had ceased selling alcohol.

Mr Sancı answered questions noting:

- The current hours of operation of his business.

- Confirmation that relevant paperwork was up-to-date and where applicable on public display.
- Historically he had applied for a Premises Licence when he was advised by the Police that he needed one, and had at that time stopped selling alcohol until it was issued. He noted that when he bought the business in 2005 the previous business had sold alcohol which lead to his confusion in respect of the need for a licence.
- He had not previously run a business that involved the sale of alcohol.
- The alcohol had been kept in a cabinet under the counter for convenience and was listed on his menus.
- The volume of stock he would normally keep and his subsequent disposal of the stock when he varied his Premises Licence.
- He also tried to comply with the requirements of the law.

Resolved - After considering: -

1. A review of the Premises Licence in respect of Best Barbecue, 24 Victoria Road, Swindon relating to the Prevention of Crime and Disorder Licensing Objective.
2. Representations and material put forward on behalf of the Police, other interested person and the Premises Licence Holder;

and taking into account: -

1. The Secretary of State's Guidance; and
2. The Licensing Authority Licensing Statement:

And having in mind the promotion of the Licensing Objectives and in particular: -

- i. The prevention of crime and disorder;

And having listened to and carefully considered all of the evidence and submissions put forward by the Police and management of Best Barbecue, 24 Victoria Road, Swindon.

The Panel considered the breaches of conditions related to the sale of alcohol and noted that a variation of the Premises Licence on 8th December 2016 had removed the sale of alcohol as a licensable activity.

The Panel noted evidence from the Premises Licence Holder that relevant documentation relating to the Premises Licence was now up to date and where applicable on public display.

The Panel was disappointed to hear from two enforcement agencies that the premises Licence Holder had failed to be fully co-operative and/or had been aggressive in his attitude towards them. The observed that bit expected the Premises Licence Holder to be fully co-operative with enforcement authorities.

Having taken into account the removal of alcohol from the Premises Licence and

assurance that the maintenance and display of documentation pertaining to the licence was in accordance with Premises Licence requirements the Panel decided that no further action was necessary.

The Chair provided written copies of the decision to all parties and reminded all parties that they had the right of appeal to the Magistrates Court and that an application for any such appeal should be made within 21 days.

Reasons

1. Alcohol as a licensable activity had been removed from the Premises Licence through a variation of the Premises Licence agreed with Wiltshire Police subsequent to this application for review.
2. There was no evidence of any disorder or breaches of the conditions since 12th November 2016.
3. The Premises Licence Holder had confirmed that he was now in compliance with the documentation requirement of the Premises Licence.
4. The Panel heard evidence that the Premises Licence Holder had ceased the sale of alcohol immediately he was made aware that he was in breach of the Premises Licence.
5. The Panel whilst noting that the Licence Holder had not always been fully co-operative with enforcement authorities did not consider that the evidence before them suggested that the Crime and Disorder Licensing Objective was seriously undermined so as to warrant adopting any of the options available to the Panel under the Licensing Act.