

LICENSING PANEL

FRIDAY, 7 JULY 2017

PRESENT:- Councillors Caryl Sydney-Smith, Vera Tomlinson and Emma Faramarzi

51. Appointment of Chair

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

52. Declarations of Interest

The Chair reminded Members of the need to declare any known interests in any matters to be considered at the meeting. Councillor Emma Faramarzi made a non prejudicial declaration of interest in respect of Agenda Item No. 4 in her capacity as The Chair of the Federation of small businesses.

53. Application to to Review Premises Licence in respect of Havelock News, 49 Havelock Street, Swindon, SN1 1SD

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 Havelock News, 49 Havelock Street, Swindon, (b) written representations from Wiltshire Police in support of the review, (c) additional information tabled at the meeting by Wiltshire Police with the agreement of the licence holder and his legal representative, (d) oral submissions in support of the application for a review received from PC Michael Diffin, M.B.E., (Police Licensing Officer), (e) oral submissions opposing the review by Mr Ioannou (Solicitor to licence holder), (f) questions from Members to the applicants and officers and answers received, and (g) 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 Manager introduce the report noting that:

- The application for review was called by Wiltshire Police under the Prevention of Crime and Disorder Licensing Objective.
- In addition there were two statements from local businesses supporting the review.
- The Premises Licence was set out on page 45 of the agenda papers.
- Wiltshire Police visited the premises on 31st January 2017 and the person working at the premises was unsure who the Premises Licence Holder and Designated Premises Supervisor was.
- On 4th February and 5th April 2017 further visits to the premises by Wiltshire Police found breaches of conditions 6, 7, 8, 10 and 11 of premises licence.

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

- Wiltshire Police visited the premises on 31st January 2017 and the person working at the premises was unsure who the Premises Licence Holder and

Designated Premises Supervisor was.

- On 31st January 2017 a further visit to the premises by Wiltshire Police found breaches of conditions 6, 7, 8, 10 and 11 of premises licence.
- That the revocation of the premises licence was being requested as breaches of the licensing conditions had been on on-going issues and only following the review application and involvement of their solicitor had some action been taken, and in the opinion of the Police this was too little, too late.
- On 20th May 2017 Wiltshire Police conducted an underage test purchase at Havelock News and a purchase of alcohol by persons aged under 18.
- The Police believed that the operation of the business undermined the Prevention of Crime and Disorder Licensing Objective and adversely affected other businesses in the vicinity.

Responses to questions to Wiltshire Police from Panel Members and the solicitor to the licence holder can be broadly summarised as:

- That local business were being adversely affected by the poor management of Havelock News.
- That both businesses responding to the review were situated in the vicinity of Havelock News.

The submission by the solicitor to the Premises Licence Holder can be broadly summarised as:

- That only two local businesses and no local residents joined the Police review, therefore the statements could not be considered indicative of all local businesses.
- That there was no evidence that crime and disorder arising from Havelock News was affecting local businesses.
- Apart from the visit from the police on 31st January and the under aged sale of alcohol on 20th May 2017 there was no evidence of further breaches of the Premise Licence's conditions.
- The Premise Licence holder accepted that there had been some breaches of the conditions attached to the Premises Licence.
- The failed test purchase was an error of judgement but the girls buying the alcohol looked to be over eighteen years of age.
- Following this failed test purchase the refusal book kept at the premises showed an entry refusing a sale of alcohol to two boys who looked under eighteen years of age.
- If these incidents were looked at in isolation it would not be appropriate to consider revocation under paragraph 5.24 of the Licensing Act.
- Following the Police visit to the premises on 31st January it had been brought to his client's attention that there was no Designated Premises Supervisor, this his client accepted was correct. Following this conversation a request to install the current Designated Premises Supervisor was made on 2nd February. In his opinion this error on its own was not relevant.
- The breaches in question arose when the former Designated Premises Supervisor, Mr Mohamed, was in the process of selling the business and that he had been allowed to continue to run the business at this time. The current Designated Premises Supervisor Mrs Kayathri Rameshkumer accepted that she need to accept responsibility for this situation.

- Mr Mohamed was no longer involved in the business and the business represents Mr and Mrs Ramesshkumer's livelihood.
- Mr and Mrs Rameshkumer are now running the business and have upgraded the CCTV, have operated an incident book since February and have provided staff training.
- Street drinking is endemic across the country and there was no proof that Havelcok News is worsening this situation.
- Mr and Mrs Rameshkumer would be willing to accept additional conditions preventing the sale of individual cans of alcohol and to prevent the sale of high strength beers.
- Mr and Mrs Rameshkumer understand any further breaches of the licence conditions could result in an additional review and asked if revocation was the solution in this case.

Responses to questions from Panel Members and the Police to Mr and Mrs Rameshkumer's solicitor and points raised can be broadly summarised as:

- The failure of the underage test purchase was an oversight as the girls looked to be over eighteen years of age. Two boys were asked to identification later the same day and refused a sale of alcohol.
- That a challenge should have been made with the girls participating in the underage test purchase but the age of girls is often harder to judge.
- Mr Mohamed and his daughter left the shop on 31st March 2017 having taken over running of the premises on 13th November 2016.
- There were two staff in addition to Mr and Mrs Rameshkumer working at the shop.
- That the business was bought two years ago and it had been an oversight not to transfer the relevant paperwork.
- Mr Rameshkumer worked part of the time at Havelock News and owned two other retail outlets.
- Mrs Rameshkumer provided training in her capacity as Designated Premises Supervisor.
- Training provided by Mr Rameshkumer and assistance given to staff in filling out their training forms and agreement by Mr and Mrs Rameshkumer that they would agree to the training of staff being outsourced.
- Police concerns regarding consistency in completing the refusals book.
- The CCTV equipment at the premises had been repaired and was now operational.
- That no counterfeit or non UK duty items had been found on the premises during Police visits.

Resolved - After considering: -

1. The application to review the premises licence made by Wiltshire Police, together with additional evidence from Wiltshire Police; and
2. Representations and material put forward on behalf of 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 in particular the prevention of crime and disorder;

The Panel determined the following: -

1. That the Premises Licence for Havelock News, 49 Havelock Street, Swindon be suspended for a period of two months.
2. That the Premises Licence be amended to include the following additional conditions:
 - (i) That all staff undertaking sales of alcohol at the premises shall be required to undertake training, provided by an accredited external trainer, in respect of the sale of alcohol, the implementation of the challenge 25 policy, and the obligations of staff and the business to uphold the Licensing Objectives.
 - (ii) That, further to (i) above, no staff shall be permitted to undertake the sale of alcohol until such time as they have successfully completed external training.
 - (iii) That there shall be no sale of individual single cans of alcohol to members of the public.
3. That copies of certificates of training once completed shall be lodged with the Licensing Authority and Wiltshire Police.
4. That the Designated Premises Supervisor shall provide the Licensing Authority and Wiltshire Police with a copy of her certificate of training undertaken on 27th June 2017.

Reasons

1. The Panel heard evidence from Wiltshire Police that there was a history of failure in upholding conditions 6, 7, 8, 10 and 11 of the Premises Licence.
2. The Panel heard evidence from Wiltshire Police that there had been a sale of alcohol to minors during a underage test purchase conducted by Wiltshire Police and Swindon Borough Council's Trading Standards Team.
3. The Panel considered that a suspension of the Premises Licence was required in order to allow the premises management to undertake appropriate external training of staff and to ensure that management systems in place were robust enough to prevent further breaches of the conditions attached to the premises licence, to prevent further under age sales and to ensure the Licensing Objectives were upheld.
4. The Panel noted that the offer to cease the sale of single cans of alcohol was made by the solicitor representing the Premises Licence Holder and Designated Premises Supervisor to assist them in upholding the Licensing Objectives.

5. The Panel carefully considered the removal of the Designated Premises Supervisor but noted that she had undertaken training, taken steps to remove two employees of the business and in order to allow her the opportunity to run the business in a manner that upheld the Premises Licence conditions and Licensing Objectives.

6. The Panel carefully considered the revocation of the Premises Licence as a result of the failure of management to respond to breaches of the conditions of the Premises Licence and the failure of the underage sale test. Whilst the Panel was disappointed that remedial action had taken so long to commence it noted that steps had now been commenced to rectify this situation.

The Chair reminded both parties that you have the right of appeal to the Magistrates Court and that an application for any such appeal should be made within 21 days.