

LICENSING PANEL

WEDNESDAY, 29 MARCH 2017

PRESENT:- Councillors Caryl Sydney-Smith, Vera Tomlinson and Peter Watts

29. Appointment of Chair

Resolved – That Councillor Peter Watts Chair this meeting of the Panel.
(Councillor Watts took the Chair.)

30. 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.

31. Application to review the Premises Licence in respect of Grosek Polski Skelp, 42 Manchester Road, Swindon, SN1 2 AG

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 Grosek Polski Skelp, 42 Manchester Road, Swindon, SN1 2 AG, (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 received opposing the application for review from Ms Karolina Pawlowicz (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 public notice in the agenda pack was incorrect. A public notice had been advertised in accordance with the relevant regulations and displayed and the consultation had ended on 5th March 2017.
- The non-display of Part B of the licence had not formed part of the public notice and therefore should not form part of the Panel's considerations.
- The review had been called by the Police on the grounds that breaches of the conditions of the premises licence and the employment of an illegal worker undermined the Licensing Objectives.
- The premises Licence had been issued on 21st October 2016.
- That a visit to the premises by the Police on 4th February 2017 had found a number of breaches of the Premises Licence, including a failure to comply with Conditions 6, 7 8, 9, 10, 14 and 15, together with a person unable to work in the United Kingdom working at the premises.

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

- There were a number of breaches to the Conditions imposed on the

Premises Licence in an area of high intensity of street drinkers.

- The conditions were imposed on the Premises Licence to ensure the responsible sale of alcohol in a sensitive area.
- There had been numerous breaches of the conditions of the Premises Licence in a short period of the store's operation.
- The disregard of the Premises Licence and employment of an illegal worker undermined the Crime and Disorder Licensing Objective.
- The person found working at the premises was appealing their residential status within the United Kingdom and was not permitted to work.
- The management of the premises had failed to undertake appropriate checks to ensure people working at the premises were permitted to work within the United Kingdom.
- The person found working illegally at the premises claimed to be helping a friend but the Police believed he was working for cash in hand.
- There was no evidence that the illegal worker had received training in respect of the sale of alcohol.
- A Police statement and Police evidence was set out in the agenda papers.
- Paragraph 11.28 of the Guidance of the Licensing Act indicated that when dealing with the undermining of the Crime and Disorder Licensing Objective there was an expectation that even in the first instance, that the Panel should consider revocation of the Premises Licence.

The Police answered questions in respect of:

- The time of the Police visit on 21st October 2016.
- Whether the Police witnessed any sale of alcohol by the illegal worker or that there was any indication given that the person found in the shop refused any sales
- Access to the till and stock by the illegal worker found in the shop.
- The Police being present for 15-20 minutes during which time the illegal worker was in charge of the shop.

Points raised by Ms Karolina Pawlowicz opposing the application for review included but were not limited to:

- The person found in the shop was only there for ten minutes whilst she picked up her daughter from school.
- The premises operated a challenge 21 policy and had CCTV.
- The shop was only been open for two weeks prior to the Police visit as management was waiting for the installation of CCTV.

Ms Karolina Pawlowicz answered questions noting:

- That she understood the conditions relating to the Premises Licence and the need for staff training in respect of the sale of alcohol and the operation of the Challenge 21 Policy.
- The role of the husband and wife in the management of the business.
- That the illegal worker found on the premises was a friend of the family who could be trusted to look after the shop.
- The pricing policy in respect of items for sale at the premises.

- That the person left in charge of the premises was instructed not to sell alcohol whilst she was away for a period of 10 to 15 minutes.

Resolved - After considering: -

1. A review of the Premises Licence in respect of Grosek Polski Skelp, 42 Manchester 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 Grosek Polski Skelp, 42 Manchester Road, Swindon the Panel has reached the following conclusions:

The Police have provided compelling evidence of the employment of an illegal worker and a number of breaches of the Premises Licence leading to a failure to uphold the prevention of Crime and Disorder Licensing Objective.

The Panel noted its duty under paragraph 11.28 of the guidance of the Licensing Act in dealing with the undermining of the Crime and Disorder Licensing Objective and the expectation, that even in the first instance, that revocation of the licence should be considered.

Having considered the evidence given the management of Grosek Polski Skelp, 42 Manchester Road, Swindon the Panel was not satisfied that any compelling evidence was put forward that breaches of the licensing objectives would not continue at the level currently experienced.

The Panel, conscious of its duty to ensure that the licensing objectives are met, have decided that the appropriate decision is to revoke the premises licence.

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. The Panel was satisfied that the illegal worker encountered at the property by Police on 4th February 2017 could be classified as working as he was effectively in sole control of the premises and the stock of alcohol.

2. The Panel determined the employment of an illegal worker did undermine the Crime and Disorder Licensing Objective.
3. The Panel determined that there was a failure of management in not upholding its duty to undertake the appropriate legal checks in respect of the residential status and the right to work in the United Kingdom of persons working at the premises.
4. The Panel determined that there was a systematic failure of management resulting in seven breaches of Premises Licence conditions and was not satisfied that any compelling evidence was put forward that breaches of the licensing objectives would not continue at the level currently experienced.
5. The Panel heard that the illegal worker working at the Premises was a personal friend of the management. Management should have been aware of their duty to undertake appropriate legal checks on his immigration status and his right to undertake employment in the United Kingdom.
6. The Panel determined appropriate training in the sale of alcohol had not been provided to the illegal worker found on the premises by police officers.