

CONSIDERATION OF APPLICATION UNDER THE LICENSING ACT 2003 – APPLICATION FOR A REVIEW OF A PREMISES LICENCE (LP 10/08)

LICENSING PANEL SUB COMMITTEE: 26th January 2009

OFFICER REPORTING: Alan Barwise – Team Leader - Licensing

A) THE APPLICATION

PREMISES:

Bridge Superstore, 2 Glynwood House, Bridge Avenue, Maidenhead SL6 1RS

Relevant licensable activities:

Sale by retail of alcohol off the premises only

Hours of licensable activities

0.800 – 23.00

Designated Premises Supervisor:

Ms H Kaur Sahota

THE APPLICATION

In this case, a list of conditions was imposed by Members on the 15th September 2008. That full list is given in the Police Report. Thames Valley Police are applying for a further Review of the Premises Licence under Section 51 of the Licensing Act 2003. As with all other applications under the Licensing Act 2003, the basis of the Review must be one of the four licensing objectives:

- ♦ Prevention of Crime and Disorder;
- ♦ Public safety;
- ♦ The prevention of public nuisance; and
- ♦ The protection of children from harm

In this case, it is alleged that the protection of children from harm, prevention of crime and disorder and the prevention of public nuisance objectives are being seriously undermined. Attached to the Report is a summary of the Police evidence together with the relevant report forms.

The Police confirm that all the relevant information has been sent to the licence holder and to the Responsible Authorities.

The relevant notice has been in place on site and in the Council offices in the Customer Service Centre since the 8th December 2008. As a result, a number of representations from local residents and local businesses have been received. Copies of the relevant letters are attached.

In addition to the evidence in the Police Report and to relevant representations, there is a report setting out the history of the premises from the point of view of Trading Standards and finally, a report about a recent test purchase operation which took place on 22nd December 2008. On that occasion, the designated premises supervisor herself sold alcohol to two female volunteers aged 16 and 16½. The seller did not ask for the purchasers' age nor was any identification requested.

WHAT MEMBERS CAN DO

The Licensing Authority can reject an application if it considers it to be frivolous, vexatious or repetitious. This is the first time that an application for a Review has been received in respect of these premises and it is considered that the application is an extremely serious one.

Members must take into account the application and any relevant representations and they make take such of the following steps as they consider necessary for the promotion of the Licensing objectives:-

- a) to modify the conditions of the licence
- b) to exclude a licensable activity under the scope of the licence
- c) to remove the designated premises supervisor
- d) to suspend the licence for a period not exceeding three months
- e) to revoke the licence

NATIONAL GUIDANCE

In the revised guidance to Local Authorities issued by the Secretary of State under Section 182 of the Licensing Act 2003 the following advice is given:-

In deciding which of these powers to invoke, it is expected that Licensing Authorities should as far as possible seek to establish the cause or causes of the concerns which the representations identify. The remedial action taken should generally be directed at these causes and should always be no more than a necessary and proportionate response. For example, Licensing Authorities should be alerted to the possibility of the removal and replacement of the designated premises supervisor may be sufficient to remedy a problem where the cause of the identified problem directly relates to poor management decisions made by that individual. Equally, it may emerge that poor management is a direct reflection of poor company practice or policies and a mere removal of the designated premises supervisor may be an inadequate response to the problems presented. Indeed, where subsequent Review hearings are generated by representations, it should be rare merely to remove a succession of designated premises supervisors as this

would be a clear indication of deeper problems which impact upon the licensing objectives.

Licensing Authorities should also note that modifications of conditions and exclusions of licensable activities may be imposed either permanently or for a temporary period of up to three months. Accordingly temporary changes or suspension of the licence for up to three months may be imposed. This could impact on the business holding the licence financially and would only be expected to be pursued as a necessary means of promoting the licensing objectives. Accordingly, a licence could be suspended for a weekend as a means of deterring the holder from allowing the problems that gave rise for the Review to happen again. However, it has always been important that any detrimental financial impact that may result from a Licensing Authority decision is necessary and proportionate to the promoting of the licensing objectives in the circumstances that gave rise to the application for a Review.

There is certain criminal activity that may arise in connection with licensed premises, which the Secretary of State considers should be treated particularly seriously. These are the use of the licensed premises:-

- a) For the sale and distribution of Class 'A' drugs and the laundering of the proceeds of drugs crime;
- b) For the sale and distribution of firearms;
- c) For the evasion of Copyright in respect of pirated or unlicensed films and music, which does considerable damage to the industries affected;
- d) For the purchase and consumption of alcohol by minors which impacts on the health, educational attainment, employment prospects and propensity for crime of young people;
- e) For prostitution or the sale of unlawful pornography;
- f) For organised groups of paedophiles to groom children;
- g) As the base for the organisation criminal activity, particularly by gangs;
- h) For the organisation of racist activity or the promotion of racist attacks;
- i) For unlawful gaming and gambling; and
- j) For the sale of smuggled tobacco and alcohol.

It is envisaged that the Licensing Authority, the Police and other law enforcement agencies, which are Responsible Authorities, will use the Review procedures effectively to deter such activities and crime. Where Reviews arise and the Licensing Authority determines that the crime prevention objective is being undermined with the premises being used to further crimes, it is expected that revocation of the licence – even in the first instance – should be seriously considered. We would also encourage liaison with the local Crime & Disorder Reduction Partnership.

It should be noted that it is unlawful to discriminate or to refuse service on grounds of race or by displaying racial discriminatory signs on the premises. Representations made about such activity from a Responsible Authority or interested parties would be relevant from a crime prevention objective and justifiable give rise to a Review.