

LICENSING APPLICATIONS SUB-COMMITTEE 2 MINUTES - 31 JULY 2015

Present: Councillors Woodward (Chair), Chrisp and Grashoff.

6. MINUTES

The Minutes of the meetings of Licensing Applications Sub-Committee 2 held on 3 July and 10 July 2015 were confirmed as correct records and signed by the Chair.

7. APPLICATION FOR THE REVIEW OF A PREMISES LICENCE - BUTTS CONVENIENCE

The Head of Planning, Development and Regulatory Services submitted a report on an application by Reading Borough Council's Chief Inspector of Weights and Measures for the review of the Premises Licence in respect of Butts Convenience, 205 Oxford Road, Reading.

The report stated that a review of the Premises Licence had been requested by Reading Borough Council Trading Standards team. The application detailed that on 1 May 2015 a quantity of alcohol had been seized at the premises for being duty diverted/smuggled. The keeping of smuggled goods for sale or storage on the premises was a breach of Section 144 of the Licensing Act. The premises had previously failed two enforcement test purchases, which had led to a review of the premises and at the meeting of Licensing Applications Sub-Committee 2 on 25 November 2011 (Minuted 22 refers) the Sub-Committee suspended the premises licence for two days and added conditions to the licence. The review application sought the revocation of the premises licence due to the serious nature of the crimes committed, the undermining of the licensing objectives and because of Sections 11.27 and 11.28 of the Secretary of State's Guidance and Section 144 of the Licensing Act.

A copy of the review application was attached to the report at Appendix I, which gave further details of the grounds for the application. A representation from Reading Borough Council's Licensing Team was attached to the report at Appendix II. A representation from Thames Valley Police was attached to the report at Appendix III. Further information submitted by the applicant, Reading Borough Council Trading Standards team, was attached to the report at Appendix IV.

A plan showing the location of the premises and surrounding streets was attached to the report at Appendix V.

The report stated that the Premises Licence Holders were Mr B Butt, H Butt and KS Dhariwal and that the Designated Premises Supervisor was Kuldip Singh Dhariwal. The existing Premises Licence, a copy of which was attached to the report at Appendix VI, permitted the following:

Hours for the Sale by Retail of Alcohol

Monday to Saturday	0800 hours until 2300 hours
Sunday	1000 hours until 2230 hours

The report stated that in considering the application, the Licensing Authority had a duty to carry out its functions with a view to promoting the four licensing objectives, as follows:

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- The prevention of crime and disorder
- Public safety
- The prevention of public nuisance
- The protection of children from harm

The report stated further that, in determining the application, the Sub-Committee could take the following steps:

- Take no further action;
- Issue formal warnings to the premises supervisor and/or premises licence holder;
- Modify the conditions of the licence (including, but not limited to hours of operation of licensable activities);
- Exclude a licensable activity from the scope of the licence;
- Remove the Designated Premises Supervisor;
- Suspend the licence for a period not exceeding three months;
- Revoke the licence.

(Where the Sub-Committee took a step mentioned in the third and fourth bullet points above it may provide that the modification or exclusion was to have effect for a period not exceeding three months or permanently.)

The report set out paragraphs 11.24 to 11.28 of the March 2015 edition of the Secretary of State's Guidance, which stated that a number of reviews might arise in connection with crime that were not directly connected with licensable activities. For example, reviews might arise because of drug problems at the premises; money laundering by criminal gangs, the sale of contraband or stolen goods, or the sale of firearms. Licensing authorities did not have the power to judge the criminality or otherwise of any issue. This was a matter for the courts. The licensing authority's role when determining such a review was not therefore to establish the guilt or innocence of any individual but to ensure the promotion of the crime prevention objective.

Reviews were part of the regulatory process introduced by the 2003 Act and they were not part of criminal law and procedure. There was, therefore, no reason why representations giving rise to a review of a premises licence needed to be delayed pending the outcome of any criminal proceedings. Some reviews would arise after the conviction in the criminal courts of a certain individual, but not all. In any case, it was for the licensing authority to determine whether the problems associated with the alleged crimes were taking place on the premises and affecting the promotion of the licensing objectives. Where a review followed a conviction, it would also not be for the licensing authority to attempt to go beyond any finding by the courts, which should be treated as a matter of undisputed evidence before them.

Where the licensing authority was conducting a review on the grounds that the premises had been used for criminal purposes, its role was solely to determine what steps should be taken in connection with the premises licence, for the promotion of the crime prevention objective. It was important to recognise that certain criminal activity or associated problems might be taking place or had taken place despite the best efforts of the licence holder and the staff working at the premises and despite full compliance with the conditions attached to the licence. In such circumstances, the licensing authority was still empowered to take any appropriate steps to remedy the problems. The

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licensing authority's duty was to take steps with a view to the promotion of the licensing objectives in the interests of the wider community and not those of the individual licence holder.

Mr William Donne, Silver Fox Licensing Consultants, and Mr Kuldip Singh Dhariwal, Premises Licence Holder, were present at the meeting and addressed the Sub-Committee. Mr Michael Philips, Solicitor, was also present at the meeting.

Ian Savill and Paul Evans, Senior Trading Standards Officers, Richard French, Senior Licensing Officer, and Matthew Knight, Community Alcohol Partnership Officer, Reading Borough Council, were all present at the meeting and addressed the Sub-Committee on the application. Sergeant Rob Pitman, Thames Valley Police, was also present at the meeting and addressed the Sub-Committee.

Resolved -

That, having reviewed the Premises Licence in respect of Butts Convenience, 205 Oxford Road, Reading, and having had regard to the four licensing objectives, in particular the prevention of crime and disorder and the protection of children from harm, and the oral and written representations made by all parties, the Secretary of State's guidance, in particular paragraphs 11.17, 11.18, 11.20 and 11.24 to 11.28 and the Council's Statement of Licensing Policy, in particular paragraph 10.5.1, the Sub-Committee concluded that it was appropriate and proportionate to revoke the Premises Licence for the following reasons:

- (a) the sale, or having in possession for sale, of smuggled alcohol;
- (b) the breach of Section 144 of the Licensing Act 2003;
- (c) the failed test purchase on 2 August 2008;
- (d) the failed test purchase on 21 January 2011;
- (e) the failed test purchase on 30 July 2011;
- (f) that a Licensed Premises Management Review meeting had been held on 18 November 2008;
- (g) that a Licensed Premises Management Review meeting had been held on 3 February 2011, when the Premises Licence Holder had been given advice on the management of the premises;
- (h) the Premises Licence Holder had obtained alcohol for sale from an unreliable source and failure to display due diligence with regard to traceability of the alcohol;
- (i) the breach of Article 18 of Regulation (EC) No. 178/2002 of the European Parliament and of the Council of 28 January 2002 and Regulation 19 of the Food Hygiene (England) Regulations 2013.

8. APPLICATION FOR THE REVIEW OF A PREMISES LICENCE - TODAY'S LOCAL

The Head of Planning, Development and Regulatory Services submitted a report on an application by Reading Borough Council's Licensing team for the review of the Premises Licence in respect of Today's Local, 441 Basingstoke Road, Reading.

The report stated that a review of the Premises Licence had been requested by Reading Borough Council Licensing team. The application detailed that illegal/smuggled tobacco had been found on the premises on 9 April 2015, which had contravened paragraph 11.27 of the Secretary of State's Guidance which stated that the sale or storage of illegal tobacco and/or alcohol on a licensed premise was considered a serious criminal offence.

In addition, the report stated that counterfeit or duty diverted alcohol had been found on the premises on 14 April 2015. 13 bottles had been seized and identified by the manufacturers as being counterfeit or duty diverted. The premise license holder had not been able to account for where the stock came from or what was in the bottles. During a visit of the premises on 29 May 2015 the Licensing Team discovered that the premises was in breach of three of the conditions on the premises licence, relating to CCTV and staff training. Due to the seriousness of the undermining of the licensing objectives, the review application sought revocation of the premises licence.

A copy of the review application was attached to the report at Appendix I, which gave further details of the grounds for the application. A representation from Reading Borough Council's Trading Standards team was attached to the report at Appendix II. A representation from Thames Valley Police was attached to the report at Appendix III. Further information submitted by the applicant, Reading Borough Council Licensing team, was attached to the report at Appendix IV.

A plan showing the location of the premises and surrounding streets was attached to the report at Appendix V.

The report stated that the Premises Licence Holder and the Designated Premises Supervisor was Mr Gurmit Singh Gurwara. The existing Premises Licence, a copy of which was attached to the report at Appendix VI, permitted the following:

Hours for the Sale by Retail of Alcohol

Monday to Saturday	0700 hours until 2300 hours
Sunday	0900 hours until 2230 hours

The report stated that in considering the application, the Licensing Authority had a duty to carry out its functions with a view to promoting the four licensing objectives, as follows:

- The prevention of crime and disorder
- Public safety
- The prevention of public nuisance
- The protection of children from harm

The report stated further that, in determining the application, the Sub-Committee could take the following steps:

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- Take no further action;
- Issue formal warnings to the premises supervisor and/or premises licence holder;
- Modify the conditions of the licence (including, but not limited to hours of operation of licensable activities);
- Exclude a licensable activity from the scope of the licence;
- Remove the Designated Premises Supervisor;
- Suspend the licence for a period not exceeding three months;
- Revoke the licence.

(Where the Sub-Committee took a step mentioned in the third and fourth bullet points above it may provide that the modification or exclusion was to have effect for a period not exceeding three months or permanently.)

The report set out paragraphs 11.24 to 11.28 of Secretary of State's Guidance, Section 182 of the Licensing Act 2003 (March 2015), which stated that a number of reviews might arise in connection with crime that were not directly connected with licensable activities. For example, reviews might arise because of drug problems at the premises; money laundering by criminal gangs, the sale of contraband or stolen goods, or the sale of firearms. Licensing authorities did not have the power to judge the criminality or otherwise of any issue. This was a matter for the courts. The licensing authority's role when determining such a review was not therefore to establish the guilt or innocence of any individual but to ensure the promotion of the crime prevention objective.

Reviews were part of the regulatory process introduced by the 2003 Act and they were not part of criminal law and procedure. There was, therefore, no reason why representations giving rise to a review of a premises licence needed to be delayed pending the outcome of any criminal proceedings. Some reviews would arise after the conviction in the criminal courts of a certain individual, but not all. In any case, it was for the licensing authority to determine whether the problems associated with the alleged crimes were taking place on the premises and affecting the promotion of the licensing objectives. Where a review followed a conviction, it would also not be for the licensing authority to attempt to go beyond any finding by the courts, which should be treated as a matter of undisputed evidence before them.

Where the licensing authority was conducting a review on the grounds that the premises had been used for criminal purposes, its role was solely to determine what steps should be taken in connection with the premises licence, for the promotion of the crime prevention objective. It was important to recognise that certain criminal activity or associated problems might be taking place or had taken place despite the best efforts of the licence holder and the staff working at the premises and despite full compliance with the conditions attached to the licence. In such circumstances, the licensing authority was still empowered to take any appropriate steps to remedy the problems. The licensing authority's duty was to take steps with a view to the promotion of the licensing objectives in the interests of the wider community and not those of the individual licence holder.

Mr Panchal, Licensing Consultant, representing the Premises Licence Holder, was present at the meeting and addressed the Sub-Committee. Mr Gurmit Singh Gurwara, Premises Licence Holder, was present at the meeting.

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Ian Savill and Paul Evans, Senior Trading Standards Officers, and Richard French, Senior Licensing Officer, Reading Borough Council, were all present at the meeting and addressed the Sub-Committee on the application. Sergeant Rob Pitman, Thames Valley Police, was also present at the meeting and addressed the Sub-Committee.

Resolved -

The Sub-Committee decided to take no action regarding the application for a review of the Premises Licence in respect of Today's Local, 441 Basingstoke Road, Reading, as the Premises Licence Holder had been issued with a letter dated 12 June 2015 which stated that 'This letter is sent and should be received as a warning against any future breaches of Licensing law, the terms and conditions of your premises licence. Should any future breaches occur, formal action will be considered'.

(The meeting started at 9.30am and finished at 12.40pm)