

Present: Councillors Livingston (Vice-Chair in the Chair), Dennis and D Edwards.

11. APPLICATION FOR THE REVIEW OF A PREMISES LICENCE - SUPERSTORE

The Head of Planning, Development and Regulatory Services submitted a report on an application by Thames Valley Police for the review of the Premises Licence in respect of Superstore, 10 Baker Street, Reading.

The report stated that a review of the Premises Licence had been requested by Thames Valley Police. The application detailed the grounds for review as follows:

- An offence under Section 128 of the Licensing Act 2003. Failure by the Designated Premises Supervisor to notify the Court as a Personal Licence Holder;
- An offence under Section 132 of the Licensing Act 2003. Failure by the Designated Premises Supervisor to the Licensing Authority of a relevant conviction;
- An offence under Section 135 of the Licensing Act 2003. Failure by the Designated Premises Supervisor to produce the current Premise Licence;
- An offence under Section 136 of the Licensing Act 2003 relating to a breach of the Minimum Pricing of Alcohol;
- An offence under Section 22 of the Theft Act 1978 relating to the handling of stolen goods;
- An offence under Section 170 of the Customs and Excise Management Act 1979 relating to the Fraudulent Evasion of Duty (Tobacco);
- An offence under Section 21 of the Immigration, Asylum and Nationality Act 2006;
- An offence under Article 4 of the Immigration (Restriction of Employment) Order 2004;
- An offence under Section 144 of the Licensing Act 2003 relating to the sale and storage of smuggled goods;
- An offence under Section 57 of the Licensing Act 2003. Failure to produce the Premise Licence;
- An offence under Section 136 of the Licensing Act 2003. Knowingly allowing or carrying on an unauthorised licensable activity;
- An offence under Section 137 of the Licensing Act 2003. Unauthorised exposure for the sale of alcohol;
- Breach of condition 2 of the mandatory conditions, as laid down by Parliament.

A copy of the review application was attached to the report at Appendix I, which gave further details of the grounds for the application. Representations received from residents were attached to the report at Appendix II. A representation from Reading

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Borough Council's Trading Standards Team was attached to the report at Appendix III. A representation from Mr Satpal Vadva, Designated Premises Supervisor, was attached to the report at Appendix IV. A representation from Mr Nadeem Shahzad, Premises Licence Holder, was attached to the report at Appendix V. A representation from Mr Makhtar Ahmed, Freeholder of Premises, was attached to the report at Appendix VI. A letter from Councillor Tony Page was attached to the report at Appendix VII.

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

The report stated that the Premises Licence Holder was Mr Nadeem Shahzad and that the Designated Premises Supervisor was Mr Satpal Singh Vadva. 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 and for the Premises to be Open to the Public
Monday to Sunday 0600 hours until 2300 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:

- 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 11.26 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

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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 Nadeem Shahzad, Premises Licence Holder, and Mr Mukhtar Ahmed, Freeholder of the Premises, were present at the meeting and were represented by Ms Sarah Walker, Barrister, who addressed the Sub-Committee.

Mr Satpal Singh Vadva, Designated Premises Supervisor, was present at the meeting and was represented by Mr Philip Somarakis, Solicitor, who addressed the Sub-Committee.

Mike King and PC Simon Wheeler, Thames Valley Police, were both present at the meeting. Mike King addressed the Sub-Committee on the application. Ian Savill and Paul Evans, Senior Trading Standards Officers, Reading Borough Council, were both present at the meeting and addressed the Sub-Committee on the application. Councillor Tony Page, Ward Councillor, and Mr Peter Bowyer, local resident, and Ms Karen Rowland, Chair of Baker Street Area Neighbourhood Association, were all present at the meeting and addressed the Sub-Committee.

Resolved -

That, having reviewed the Premises Licence in respect of Superstore, 10 Baker Street, Reading, and having had regard to the four licensing objectives and the oral and written representations made by all parties, the Secretary of State's guidance, in particular paragraphs 11.24 to 11.26 and the Council's Statement of Licensing Policy, the Sub-Committee concluded that it was appropriate and proportionate to revoke the Premises Licence, and thereby removing the Designated Premises Supervisor, for the following reasons:

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- (a) the Premises Licence Holder should have taken reasonable steps to ensure that the four licensing objectives were promoted and at some of the visits (as stated at the meeting) to the Premise, by the Premises Licence Holder or his representative, some of the matters complained of should have been apparent, for example the pricing of alcohol and street drinkers, although not limited to these examples;
- (b) that the failure of the Premises Licence Holder to take necessary steps to promote the four licensing objectives had contributed to the alleged breaches as stated by the applicant as the grounds for review, as set out in the review application;
- (c) that, as reported at the meeting, the current closure of the premises had led to a reduction of crime and disorder and public nuisance in the neighbourhood, which promoted the four licensing objectives;
- (d) the Sub-Committee did not consider that the conditions that had been proposed by all parties would be sufficient to promote the four licensing objectives.

(The meeting started at 9.30am and finished at 12.22pm)