

Licensing Sub-Committee

A meeting of the Licensing sub-committee was held on Friday, 17th March 2006.

Present: Councillors Leonard, Mrs Nelson and Woodhead.

Officers: M Vaines (DNS) J Douglas (LDS).

1167 Appointment of Chairman

RESOLVED that Councillor Leonard be appointed Chairman for this meeting only.

1168 Dickens Self Storage, Unit 2B, Malleable Way, Portrack Lane, Stockton-on-Tees - Application under Schedule 8 of the Licensing Act 2003 - Application for a Premise Licence

The Licensing Officer presented the report to the Committee. Consideration was given to the application as outlined in the report by the Licensing Officer. Members noted and gave consideration to the representations that had been received from responsible authorities, namely the Council's Trading Standards Section and Cleveland Constabulary. Members heard oral submissions from Mr Jones on behalf of the Trading Standards Section and Mrs Nevison and PC Hodgson for Cleveland Constabulary.

Mrs Nevison and PC Hodgson presented their submissions to the Committee. They explained that they did not have any objection in principle to the premises licence but they did object to the Applicant as the Designated Premises Supervisor (DPS).

The Committee were referred to paragraph 4 of the Guidance issued by the DCMS under section 182 of the Licensing Act 2003. Paragraph 4.20 states:-

"The Police are able to object to the designation of a new premises supervisor where, in exceptional circumstances, they believe that the appointment would undermine the crime prevention objective". The Police can object where the presence of that individual give rise to exceptional concerns.

It was explained that the Applicant had been trading as 'After Hours' for some time, supplying alcohol via a home delivery service.

The Police had received a number of complaints from residents in Yarm who had received leaflets advertising 24 hours supply of alcohol by 'After Hours'. As a result of these complaints the Police conducted test purchases.

On Monday 5th December 2005, the Police in conjunction with Stockton-on-Tees Borough Council had purchased alcohol from the Applicant whilst a personal or premises licence was not in place.

On Thursday 5th January 2006, the Police conducted a further successful test purchase from After Hours where Mr Mizsei delivered and sold alcohol to an address in Norton.

Mr Mizsei had been interviewed in relation to these offences and reported for Summons. He is awaiting trial for all three offences.

It was explained that the Police could not object to Mr Mizsei's application for a personal licence as he does not yet have any relevant convictions. However if Mr Mizsei were to be appointed as DPS it was considered that this would undermine the crime prevention objection and also fell into the 'exceptional circumstances' referred to above.

The Police stated that they may not have any objection to the premises licence application if an alternative and acceptable DPS was specified in the application.

The Trading Standards Officer explained that due to the mobile nature of the business it was considered that there was a likelihood of sales of alcohol to children. A mobile business was not as well placed to implement effective due diligence systems as compared to fixed shop premises for example a mobile van sale could not use CCTV, monitor the sale, till prompts, point of sale notices.

It was considered that the mobile nature of the business could encourage children to ask for alcohol and increase the temptation for a trader to sell alcohol. There was a danger that there could be sales to children at the delivery address or in the street. It would be more difficult to monitor sales through test purchases with minors due to the nature of the business.

If the Committee were minded to grant the licence the Trading Standards Officer proposed the following as minimum conditions:-

1. Alcohol should only be delivered to an adult over the age of 18 and must not be left with a child, even if an adult had ordered the alcohol.
2. Alcohol should only be delivered to a fixed premises and not to anyone in the street.
3. All alcohol products should be marked with the business name.
4. All staff are to be trained with regard to the sale of alcohol and law relating to this. This should include the need to ask for identification and verification of age. Staff training records should be maintained.
5. A requirement to maintain a Refusals Book to record all instances where the sale of alcohol has been refused
6. The business shall only employ staff over the age of 18 years.

The Applicant (Mr Mizsei) explained that he had previously been a temporary manager prior to the new licensing legislation. He had also held two temporary events without any objection. He explained that he knew that he could not sell to children and would not do so.

Mr Mizsei had a disability and had been on incapacity benefit. He decided to go self employed starting 'After Hours'. Other similar businesses were operating in Middlesbrough.

Mr Mizsei was conducting the business with his son who helped out. Until the recent changes in legislation it was permitted to sell wholesale. Mr Mizsei felt that the law was confusing. He had understood that you could operate a call centre, and sell a lottery ticket with the alcohol without a licence.

Mr Mizsei explained that he does label products and produced examples of labelling and key rings.

Mr Mizsei was willing to have a Refusal Book and notices at the back of his van. He explained that customers will have to come to the back of the van to obtain the alcohol.

Mr Mizsei indicated that his target market was Friday and Saturday night parties. He was charging £25 for a crate of lager. If the supermarket was open customers would buy their alcohol there as it's cheaper. Because his

alcohol was more expensive he did not think that children would pay his prices.

In response to questions from members of the Committee:-

Mr Mizsei confirmed that he would use a stamp rather than labels to mark his products as the labels could be peeled off.

Mr Mizsei confirmed he would ask for identification and would keep a Refusal Book. If anyone under 18 years tried to purchase alcohol from him he would 'blacklist' them.

In reply to Mr Mizsei's submissions:-

The Police clarified that they had not objected to the two temporary event notices as they had not had time to do so.

The Licensing Officer explained that it was permitted to provide alcohol as prizes in a small lottery but this was only if it was incidental to an exempt entertainment and not if it was to conduct street sales at the time a lottery ticket was purchased.

Also there is an exemption for 'call centres' but only to the extent of the place which receives orders, a licence is still required for the premises where the alcohol is stored and distributed from.

The Committee had regard to all the representations made.

The Committee had regard to the Statutory Guidance which stated:-

"The Police are able to object to the designation of a new premises supervisor where, in exceptional circumstances, they believe that the appointment would undermine the crime prevention objective".

After giving due consideration to all of the evidence the Committee agreed that whilst there was no objection to the premises licence in principle, there were concerns about unlawful sales, particularly to children.

Mr Mizsei had been reported for summons in respect of three offences of unlawful sales and was awaiting trial.

RESOLVED that this was an exceptional circumstance where the nature of the business conducted meant that Mr Mizsei was not a fit and proper Designated Premises Supervisor in accordance with paragraph 4.20 of the Statutory Guidance. The Application was therefore refused.

1169 Dickens Self Storage, Unit 2B, Malleable Way, Portrack Lane, Stockton-on-Tees - Application under Schedule 8 of the Licensing Act 2003 - Application for a Premise Licence

The Licensing Officer presented the report to the Committee. Consideration was given to the application as outlined in the report by the Licensing Officer. Members noted and gave consideration to the representations that had been received from responsible authorities, namely the Council's Environmental Health Section. Representations had not been received from any other statutory consultees. Representations had been received from five persons living within the vicinity of the premises. It was noted that one of these persons was in attendance at the Committee meeting. Members heard oral submissions from Mrs Claire Llewellyn on behalf of the Environmental Health Section.

The Environmental Health Officer (EHO) then presented their submission to the Committee and explained that they had submitted a representation as they had concerns over the potential for public nuisance associated with entertainment noise and noise from clients leaving the premises.

The EHO confirmed that they had held constructive discussions with the Applicant. The Applicant had been informed of conditions which the EHO felt would address both his concerns and those that had been expressed in some of the other representations. The Applicant had indicated agreement to conditions that could be attached to the licence, which, if granted, would address concerns over the likelihood of public nuisance. The EHO confirmed that the Applicant had agreed to the conditions.

Mr Evans stated that he had been made aware of the proposed conditions and felt that these would address the concerns of residents in the immediate vicinity. Mr Evans expressed the wish that these conditions would be enforced properly.

The Applicant (Mr Staples) stated that he and the Committee accept that 21:00 hours is sufficient for the playing of music and that after that time there should be no disturbance. Both he and the Committee wish to maintain good relations with residents. Mr Staples confirmed that they were happy to agree to the conditions which had been suggested by the EHO.

In considering their decision members were mindful that they needed evidence on which to base their decision.

It was noted that Environmental Health had little or no evidence concerning any problems associated with noise nuisance from the premises. In any event it was noted that the conditions as agreed with the Environmental Health Officer would address the concerns of public nuisance held by the officer and some of the concerns expressed by residents in their representations.

The Committee noted that the Objectors concerns were general in nature. It was noted that the Environmental Health Officer had suggested a number of conditions that could be attached to the Licence to address the possibility of public nuisance associated with the application before the Committee.

The Committee noted that one of the persons who had made a representation was in attendance at the Committee meeting and they noted his concerns but felt that the conditions attached to the licence addressed these.

When considering their decision the Committee had regard to the Statutory Guidance issued under Section 182 of the Licensing Act 2003 and the Councils Licensing Policy. The main concern of residents was over the potential for public nuisance. The Committee were of the view that the conditions as suggested by the Environmental Health Officer and agreed by the Applicant would address the potential for public nuisance.

RESOLVED that the application for a premises licence be granted as detailed in the application form which can be summarised as follows:-

Provision of regulated entertainment including plays, films, indoor sporting events, live music, recorded music, performance of dance and provision of facilities for making music and dancing between the following hours:-

Monday to Thursday: 09:00 to 24:00
Friday to Saturday: 09:00 to 01:00
Sunday: 10:00 to 24:00

The Committee imposed the conditions as detailed below, namely:-

Any music played within the premises after 21:00 shall be background music only and inaudible at the nearest residential premises. Music above background level may be played within the premises between 21:00 and 00:00 for a maximum of six events per year.

Any music played within the annex of the premises shall be background music only and inaudible at the nearest residential premises.

All external doors and windows shall be kept closed when regulated entertainment is being provided except in the event of an emergency. Any music played within the premises shall not cause a disturbance at the nearest residential premises. Any music shall be played indoors only.

The licence holder or his representative shall conduct periodic assessments of the noise coming from the premises when used for regulated entertainment and shall take steps to reduce the level of noise where it is likely to cause a disturbance to local residents. A written record shall be made of those assessments and shall include, the time and date of the checks, the person making them and the results including any remedial action. All records shall be retained for one year.

Use appropriate management controls to reduce the likelihood of customers causing noise disturbance to local residents when vacating the premises. This should include placing throughout the premises, in a place where they can be seen and easily read by the public, notices requiring customers to leave the premises and the area quietly (note this may also include a reference to vehicles).

As well as the conditions placed on the licence by Committee it was noted that mandatory conditions would also be placed on the Licence as detailed under the Licensing Act 2003.