

## **Licensing Sub-Committee – Meeting held on Wednesday, 20th June, 2012.**

**Present:-** Councillors Davis, Rasib (Chair) and A S Wright

**Officers Present:-** Mrs Kauser (Democratic Services) and Miss Okafor (Legal Services)

### **PART 1**

#### **1. Declarations of Interest**

Agenda item 4 – Review of Premises Licence Alexandra Wines: Councillor Rasib declared that an individual had contacted him regarding this agenda item. He had not discussed the case and would consider the matter with an open mind.

#### **2. Minutes of the Meetings held on 8th March and 11th April 2012**

The minutes of the meetings held on 8<sup>th</sup> March and 11 April 2012 were approved as a correct record.

#### **3. Application to Vary the Designated Premises Supervisor - 100 Lounge, 100 High Street, Slough.**

The Democratic Services Officer informed the Sub-Committee that the applicant had withdrawn the application.

#### **4. Review of Premises Licence - Alexandra Wines, Unit 4 Alexandra Plaza, Chalvey Road West, Slough**

Following introductions the procedure for the hearing was outlined. The Chair confirmed that all parties had received a copy of the relevant paperwork.

##### Introduction by the Council's Licensing Officer

Mrs Sagar, Licensing Officer, stated that the venue operated under a premises licence which authorised the sale by retail of alcohol for consumption off the premises. Licensable activities were permitted from 0800 hours to 2300 hours Monday to Saturday and 1000 hours to 2230 hours on Sundays.

In February 2012, the Council's Trading Standards service submitted an application for the review of the premise licence on grounds of the prevention of crime and disorder, public safety and protection of children from harm. It was noted that no objections had been submitted by any other responsible authority.

Options available to the Sub-Committee were outlined for Members consideration.

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### Questions to Licensing Officer

None.

### Representations made by Trading Standards

Mr Singh, Principal Technical Enforcement Officer detailed why a review of the premises licence had been sought. It was submitted that the premises licence holder had on a number of occasions been given advice regarding underage sales and selling counterfeit alcohol. Following a complaint from a member of the public that alcohol had been sold to a minor, a joint visit by police and trading standards was made to the premises in January 2004. A retailer pack which contained advice on underage sales was given to the premises licence holder and Designated Premises Supervisor, Mr Avtar Singh.

Following further complaints relating to the sale of alcohol and cigarettes to minors and the sale of counterfeit alcohol, a further trader pack containing advice on underage sales was given to Mr Singh on 4<sup>th</sup> October 2005.

On 19<sup>th</sup> November 2007, five bottles of counterfeit Glens Vodka were seized from the premises. Due to the relatively small number of bottles seized, the business was again given advice on underage sales in January 2008.

It was brought to Members attention that in April 2007 15 bottles of counterfeit Jacob's Creek wine were found on the traders premises. Members were informed that Mr Singh was convicted in May 2012 for possession of and sale of counterfeit alcohol. Furthermore, a prosecution was pending for the sale of alcohol to a minor, following an underage test purchase exercise by Trading Standards in November 2011.

Mr Singh stated that given the repeated advice that had been provided to the premises licence holder, revocation of the premises licence was, in his view, a reasonable response in the circumstances of the case.

### Questions to Trading Standards Officer

A Member questioned how many complaints had been received regarding counterfeit goods at the premises. It was noted that whilst it was difficult to provide figures, information was received from Thames Valley Police. In response to why the premises licence holder had not been prosecuted previously, Mr Singh stated that it was considered appropriate that an opportunity be given to the premises licence holder to put in place measures to address the issues that had been raised. However, given the fact that the same difficulties

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### Representations made by the Premises Licence Holder

Mr Robson, legal representative, made representations to the Sub-Committee on behalf of the premises licence holder. It was submitted that Mr Singh was aware that he had made an error of judgement in the past but was not aware of the gravity of the current situation, as in previous circumstances he had received advice and not been prosecuted for any offence. Although Mr Singh had accepted a caution in 2007, he had not been aware of the legal implications of accepting a caution.

Members were informed that Mr Singh had had the business for over 15 years and that it was his livelihood. It was noted that a number of measures had been implemented at the premises' to address the issues that had been raised including maintaining a refusals register and a Challenge 25 Policy was in place. Furthermore, Mr Singh's wife had recently obtained a Personal Licence.

Mr Robson argued that revocation of the premises' licence was considered too harsh a response. Sub-Committee Members were urged to consider and make use of the 'Yellow Card Scheme' system as directed and recommended by The Department of Culture, Media and Sport (DCMS).

### Questions to the Premises Licence Holder

A Member sought clarification regarding correspondence contained within the agenda which referred to the business premises being sold. Members were informed that Mr Singh had approached a firm of solicitors for general advice and had no intention of selling the business.

The Licensing Officer asked whether as a Personal Licence Holder and Designated Premises Supervisor, Mr Singh should have been aware of his responsibilities as a licensee. Mr Robson stated that although Mr Singh was fully aware of his responsibilities he had not appreciated the seriousness of the issues that had been raised.

### Summing Up

All parties provided a brief summary. The Licensing Officer reminded Members of the options available to them. Mr Singh, Trading Standards Officer reiterated that given the number of warnings and advice that had been given to the premises licence holder and that matters had not improved, revocation of the premises licence was being recommended.

Mr Robson stated that his client realised the severity of the situation and the possible consequences and requested that he be issued with a yellow card warning.

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### Decision

Having carefully considered all the information available, the Sub-Committee decided to revoke the premises licence. In reaching this decision, Members were mindful that advice had been given by Trading Standards Officers in January 2004, October 2005 and January 2008 regarding underage sales. Furthermore, it was noted that a caution was given in November 2007, following the confiscation of counterfeit alcohol from the premises. The Sub-Committee also took into account the fact that you were convicted for the possession and sale of counterfeit goods in May 2012 and a prosecution was currently pending for the sale of alcohol to a minor in November 2011.

The Sub-Committee noted that as a Personal Licence Holder and Designated Premises Supervisor for the premises Mr Singh should have been aware of his role and responsibilities to promote the licensing objectives regarding crime and disorder and protection of children from harm. Members of the Sub-Committee decided that for the reasons outlined above, revocation of the premises licence was a proportionate and necessary response.

### **5. Application for Street Trading Consent - 'Zorbas Kebabs' London Road / Drake Avenue, Slough.**

All parties were welcomed to the meeting and the procedure for the hearing was outlined. It was confirmed that all had received a copy of the relevant paperwork.

### Introduction by the Licensing Officer

Mrs Sagar, Licensing Officer, reminded Members that in April 2011 the Council had approved all streets within the Borough as Consent Streets. An application had been received by Mr Al-Amin for a street trading consent for 'Zorbas Kebabs.' It was noted that the location for the proposed business was in two parking bays located in the service road off London Road/Drake Avenue.

In accordance with policy, the Licensing Office had consulted with all of the relevant responsible authorities, businesses and residential properties within 100 metres of the proposed site. A total of nine objections from local residents had been received on grounds of increased noise pollution, increased disturbance to local residents, increase in anti-social behaviour, increase in litter and parking issues. Objections to the application had also been submitted by the Council's Environmental Health Team and the Highways Department.

Options available to the Sub-Committee were highlighted and Members reminded that should the application be approved, standard conditions would be imposed on any consent.

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### Questions to Licensing Officer

None.

### Representations made by the Applicant

Mr Ali, on behalf of his father, outlined the reasons as to why a street trading application had been submitted. It was stated that following consideration of a number of sites, it was felt that the lay by off London Road/Drake Avenue was the most appropriate. Members were informed that they had previously traded at the Gala Bingo Site on Bath Road.

Responding to the number of concerns raised by local residents regarding noise nuisance, litter and parking difficulties, it was stated that extra litter bins would be put in close proximity to the burger van. In addition, an electric box as opposed to a generator would be used in order to keep noise levels to a minimum. It was submitted that patrons would be requested to move on once food had been purchased and be encouraged not to congregate in the area. Furthermore, staff would clear the area of any litter everyday prior to leaving.

### Questions to the Applicant

A Member asked how concerns regarding noise would be addressed. Mr Ali stated that notices would be put up requesting individuals to leave the area quietly. Members were informed that that particular site had been identified as the most appropriate trading site following consideration of a number of sites. In response to why trading hours of 1700 hours to 0100 hours and 0300 hours at the weekends were being requested, Mr Ali stated that they were looking to target the late evening / night time market.

### Representations on behalf of Responsible Authorities

Mr Agha, on behalf of the Council's Highway department explained why objections had been submitted with regard to the application. The proposed location of the kebab van was within the public highway, in unrestricted and unenforced parking bays, which were designated for public use for customers visiting the shopping parade. The proposed location was classified as a residential area and the type of activity being proposed was unsuitable for this area.

Mr Blake, Team Leader for the Neighbourhood Enforcement Team stated that in view of the location of the proposed pitch there was significant potential for noise disturbance from running car engines, music from cars, slamming car doors and customers congregating and talking. It was also submitted that the proprietor was unlikely to have much control over the actions of his customers and given that the proposed pitch was in a residential area, the neighbourhood Enforcement Team was unable to support the application.

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### Questions to Responsible Authorities.

A Member asked what the terminal hour of trading was for premises situated within the shopping parade. It was noted that the food takeaway closed at 2200 hours.

### Representations made by Interested Parties.

It was noted that written representations in objection to the application had been submitted by a number of local residents.

### Summing Up

Following a brief summary, all parties were asked to leave the meeting whilst the Sub-Committee deliberated.

### Decision

All parties re-joined the meeting.

Having carefully considered all written and oral submissions the Sub-Committee decided to refuse the application for street trading consent. In reaching their decision, Members were of the view that the location was unsuitable for the type of trading detailed in the application.

Chair

(Note: The Meeting opened at 10.00 am and closed at 2.10 pm)