

Licensing Sub-Committee – Meeting held on Monday, 20th February, 2012.

Present:- Councillors Long (Chair), Rasib and Plenty

Officers Present:- Mrs Kauser (Democratic Services) and Ms Osbourne (Legal Services)

PART 1

1. Declarations of Interest

None were received.

2. Review of the Premises Licence - Cippenham Food and Wine, 104 Cippenham Lane, Slough

The Chair welcomed all parties to the meeting and explained the procedure for the hearing. It was noted that the premises licence holder and designated premises supervisor, Mr Dhawan had not received a copy of the paperwork prior to the Sub-Committee hearing. However, Mr Dhawan had had an opportunity prior to the meeting to read through the paperwork and confirm that he was happy to proceed with the hearing.

Introduction by the Licensing Officer

Mr Idowu stated that on 4th January 2012 Thames Valley Police submitted an application for the review of the premises licence on the grounds of the protection of the children from harm. Members were informed that the premises licence was held by Mr Dhawan who is also the designated premises supervisor for the venue. The terminal hour for licensable activity namely the sale of alcohol for consumption of the premises was 11pm. Members were informed that no other representations had been made by any of the responsible authorities. A number of conditions were being requested by Thames Valley Police including that the Sub-Committee issue a yellow card warning to the licensed premises.

Options available were outlined to members including the relevant guidance and policies.

Questions to the Licensing Officer

A member requested clarification regarding whether cigarettes had been sold to an underage person and whether this was part of the test operation. The Licensing Officer stated that the sale of cigarettes to a 12 year old was based on intelligence received by Thames Valley Police relating to the premises and had not been part of the test operation at the premises on 9th December 2011.

Licensing Sub-Committee - 20.02.12

Representations by the Thames Valley Police Licensing Officer

Mrs Debbie Pearman stated that a premises licence review had been requested on the grounds of the protection of children from harm. On 9th December 2011 a test purchase operation was carried out at the premises. Mr Dhawan sold a bottle of wine to a 15 year old girl and did not ask for any proof of age or ID. It was stated that the number of conditions requested by Thames Valley Police were considered to be necessary in order to promote the licensing objectives relating to the protection of children from harm.

Questions to Thames Valley Police

A member asked for an explanation with regard to Challenge 25 policy and Bottletwatch scheme. It was explained that Challenge 25 policy had been introduced in order to make sure that there was no doubt in an individual's mind whether an individual was 21 or over. With regard to the Bottletwatch scheme a UV marking system was used to identify the alcoholic drinks sold at the premises and this would ensure should any alcohol be confiscated from underage children where the alcohol had been purchased.

Representations by the Premises Licence Holder

In addressing the Sub-Committee Mr Dhawan stated that he was very remorseful for the error of judgement that he had made on the 9th December 2011 and that he would ensure that this did not happen again.

Questions to the Premises Licence Holder

Mr Dhawan confirmed that he had sold alcohol during the test operation to a minor and that he had not asked for any ID. Mr Dhawan also confirmed that the opening hours of the premises were 6.30hrs to 21.30hrs. Mr Dhawan also indicated that he was happy to accept the conditions being proposed by Thames Valley Police.

Summing Up

All parties were provided with an opportunity to provide a brief summary following which they were asked to leave the room whilst the sub-committee deliberated.

Decision

All parties were asked to join the meeting. Having considered all the available information the sub-committee decided that the following conditions be added to the premises licence:

- (1) CCTV footage to be kept for 31 days.
- (2) Designated Premises Supervisor or nominated person to be trained on how to work with CCTV system to the standard where the

Licensing Sub-Committee - 20.02.12

nominated person can download any potential evidence required by Thames Valley Police or relevant agencies.

- (3) Challenge 25 policy to be in place.
- (4) All persons trained to sell alcohol shall be trained to the BIIAB level 1 award in response for alcohol retailing.
- (5) Designated Premises Supervisor to attend an appropriate licensing course and pass the course and to inform Thames Valley Police Licensing and Slough Borough Council Licensing officers when this had been done.
- (6) The Premises Licence Holder or Designated Premises Supervisor shall ensure staff receive training on a regular basis in relation to the 4 licensing objectives contained within the Licensing Act 2003 for those authorised to sell alcohol. Written proof of training shall be recorded and maintained and made available upon request of Police, Trading Standards or Slough Borough Council licensing officers.
- (7) Two members of staff to be on the premises from 6.00 pm until close.
- (8) Refusals Register to be in place, kept up to date and made available upon request of Police, Trading Standards or Slough Borough Council licensing officers.
- (9) To participate in Bottle Watch if requested by Police or Trading Standards. The Sub-Committee also decided to issue a 'Yellow Card' to the licensed premises as a warning that if a further review was necessary and matters had not improved the premises licence may be revoked. A 'Yellow Card' will be clearly and visibly displayed at the premises for a period of 12 months detailing the imposition of new conditions on the premises licence and that this warning had been given.

3. Exclusion of the Press and Public

Resolved – That the press and public be excluded from the remainder of the meeting as the items to be considered contain exempt information relating to individuals as defined in Paragraph 1 of Part I of Schedule 12A to the Local Government Act 1972 (as amended).

4. Private Hire Driver Application Hearing (Reference 04-11)

The Chair welcomed all parties to the hearing and confirmed that all had received a copy of the paperwork. The procedure for the hearing was outlined. It was noted that consideration of the matter had been adjourned from the meeting of the Sub-Committee in December 2011 due to the non attendance of the Appellant.

Mr Idowu, Licensing Officer, reminded Members that the purpose of the hearing was to consider whether Appellant 04-11 was a fit and proper person to hold a private hire driver's licence. The matter had been referred to the Licensing Sub-Committee in view of the convictions detailed on the

Licensing Sub-Committee - 20.02.12

application form submitted by the Appellant. A copy of the Criminal Record Bureau disclosure was submitted to Members for their information. Options available to the Sub-Committee were outlined.

Appellant 04-11 stated that although he had a number of convictions, these were from a number of years ago. The Appellant submitted details regarding his personal circumstances and as to why he should be licensed as a private hire driver. It was also brought to Members attention that the Appellant was currently licensed as a private hire driver with a neighbouring local authority.

Resolved – That Appellant 04-11 be granted a Private Hire Driver Licence subject to a Criminal Record Bureau Check being carried out every three months.

5. Private Hire Driver Application Hearing (Reference 06-11)

Following introductions, the procedure for the hearing was outlined. The Democratic Services Officer explained that although paperwork was sent to the Appellant recorded delivery, the Appellant had failed to collect this from the post office. The Appellant was given the opportunity to have the hearing adjourned to an alternative date. The Appellant confirmed that he had had an opportunity to read the paperwork prior to the commencement of the hearing and was happy to proceed.

The Licensing Officer informed Members that Appellant 06-11's Criminal Record Bureau (CRB) disclosure detailed a number of convictions and cautions between April 1996 and July 2003. A copy of the CRB disclosure was circulated to Sub-Committee Members for their information.

Members were reminded that the Council's Policy and Guidance on Convictions and Cautions stated that *"in general, a period of at least five years free from conviction should be required before entertaining an application."* The options available to the Sub-Committee were highlighted for their consideration.

The Appellant explained to Members the mitigating circumstances relating to his convictions and highlighted that the most recent conviction had been in July 2003 . It was noted that the Appellant had previously worked as a courier. In providing details regarding his current employment, the Appellant stated that this position required a degree of responsibility.

Having taken all available information into consideration, the Sub Committee

Resolved – That Appellant 06-11 be granted a Private Hire Driver Licence subject to a Criminal Record Bureau Check being carried out every six months.

Licensing Sub-Committee - 20.02.12

6. Private Hire Driver Application Hearing (Reference 07-11)

All parties were welcomed to the meeting and the procedure for the hearing was outlined. The Appellant confirmed that he had received a copy of the paperwork.

The Licensing Officer stated that the matter had been referred to the Sub-Committee for consideration due to the Appellant's conviction in June 2009. It was noted that the conviction related to the offence of theft from employee and that the Council's policy regarding convictions and cautions stated that "a serious view should be taken of any conviction involving dishonesty" and accordingly a period of three to five years free of conviction should be required before entertaining an application. It was also brought to Members attention that the Appellant had failed to declare his conviction on his private hire driver application form. Options available to the Sub-Committee were highlighted.

In response to a Member query, the Licensing Officer confirmed that apart from the conviction of June 2009 there were no other convictions on the Appellant's CRB disclosure.

In addressing the Sub-Committee, the Appellant placed on record his remorse for his actions which had led to his conviction. Previous employment details were outlined for the Sub-Committee. The Appellant stated that working as a private hire driver would provide flexibility to allow him to work hours that suited him. The Appellant confirmed that although he had signed the application form, it had in fact been completed on his behalf by his sister who had omitted details of his conviction from the form.

Following a summary from the Licensing Officer and Appellant, they were asked to leave the room whilst the Sub-Committee deliberated.

Having taken into account all the information, Members

Resolved – That Appellant 07-11 not be issued with a Private Hire Driver's Licence.

7. Private Hire Driver Conduct Hearing (Reference 08-11)

The Licensing Officer submitted that the matter had been referred to the Sub-Committee to consider whether Appellant 08-11 was a fit and proper person to continue to hold a private hire driver's licence. Members were informed that the final bullet point in the report regarding to why the PHD licence should be suspended was not relevant to this case and that it should be disregarded as this was an administrative error.

It was noted that the Appellant had received a caution for the offence of common assault in September 2011. Members were reminded that for a caution to be administered the offender had to admit to the offence. It was also brought to Members attention that the Licensing Office had received two

Licensing Sub-Committee - 20.02.12

complaints regarding the Appellant's standard of driving, details of which were outlined to Members. Options available to the Sub-Committee were highlighted.

In addressing the Sub-Committee, the Appellant provided details relating to the caution he had received. He explained that working as a taxi driver was his livelihood. The Appellant expressed remorse with regard to the incidents that had been raised relating to his standard of driving. Members were provided with a character reference letter by the Appellant from his current employer.

In summing up, the Licensing Officer reiterated the options available to Members. The Appellant stated that he would ensure that in future no cause for concern was raised in relation to his standard of driving.

Resolved - That Appellant 08-11's Private Hire Driver Licence be suspended for a period of four weeks and that he be issued with a strict warning regarding his future behaviour and compliance with the conditions of his private hire driver's licence.

8. Private Hire Driver Application Hearing (Reference 09-11)

All parties were welcomed to the meeting and the procedure for the hearing was outlined. The Appellant confirmed that he had received a copy of the paperwork.

The Licensing Officer stated an application for a private hire driver's licence had been submitted in August 2011. Following the receipt of the Criminal Record Bureau (CRB) disclosure in December 2011, it was noted that the Appellant had 18 convictions relating to a range of offences between July 1995 and June 2008.

Members attention was drawn to the Council's policy regarding convictions and cautions which stated "*more than one conviction for any combination of offences should raise serious concerns.... in general, a period of at least five years free from conviction should be required before entertaining an application.*"

The Appellant whilst acknowledging that he had made a number of mistakes in the past, provided mitigating circumstances relating to his behaviour during that period. It was noted that he had recently become engaged and had struggled to find employment in the current economic climate. The Appellant submitted that he be given an opportunity to prove himself and suggested that a licence to be issued for a period of three or six months and his behaviour be monitored throughout this period.

In response to a Member question, the Appellant stated that his understanding was that only offences within the last five years needed to be declared on the application form.

Licensing Sub-Committee - 20.02.12

Both parties were given an opportunity to provide a summary, following which they left the meeting to allow the Sub-Committee to deliberate.

Having carefully considered all the written information and submissions made at the hearing, the Sub-Committee

Resolved – That Appellant 09-11 not be issued with a Private Hire Driver's Licence.

Chair

(Note: The Meeting opened at 10.00 am and closed at 2.30 pm)