

LICENSING SUB-COMMITTEE
15th January 2013

(Item)

LICENSING ACT 2003

S D WINES

131 Bath Road, Slough, SL1 3UW

Review of Premises Licence – **Number PL004439**
Application made by Slough Borough Council
Trading Standards Service

1. CURRENT POSITION

- 1.1 S D Wines operates under a Premises Licence number **PL004439** which is held by Mr Surinder Pal Singh Rajasansi.
- 1.2 The Designated Premises Supervisor (DPS) at the time of this Review Application being made by Slough Borough Council Trading Standards Service is Mr Kulvinder Vir Rajasansi the son of Mr Surinder Rajasansi and who holds a Personal Licence number **PA004726** with Slough Borough Council.
- 1.3 The DPS is responsible for the day to day management of the premises.
- 1.4 The Premises Licence authorises the carrying out of the Relevant Licensable Activities as follows:
- **M - The sale by retail of alcohol for consumption Off the premises only**

- 1.5 The times the licence authorises the Licensable Activities are

Monday to Sunday - 09.00am to 02.00am
Christmas Day - Noon to 10.00pm

A copy of the current Premises Licence is attached at **Appendix A.**

2. BACKGROUND INFORMATION

- 2.1 On 23rd November 2012 Slough Borough Council Trading Standards Service submitted an application for the Review of the Premises Licence on grounds of the Prevention of Crime and Disorder, Public Safety and the Protection of Children from Harm, the full Review Application and supporting evidence are contained at **Appendix B.**
- 2.2 The grounds for the Review Application although contained fully within the application itself can be summarised as follows;

- Selling of 1 pack of 10 “Benson and Hedges Gold” cigarettes i.e. an aged restricted product to an underage person on 29th June 2012, and
- That the premises were subject of a previous Review Application 2006 made by Thames Valley Police where alcohol was sold to an underage person and breaches of the Premises Licence conditions in that the CCTV system not working properly, the Police not being informed of the defect and the proof of age scheme not being implemented.

3. APPLICATION – REVIEW OF PREMISES LICENCE

3.1 The Licensing Authority is satisfied that this application for Review meets the appropriate legislative requirements within the Licensing Act 2003 and is therefore a valid application to be considered by the Licensing Sub-Committee.

3.2 There are various grounds on which a Review Application may be triggered and these are:

- 1 or more sales to minors of alcohol or **any other age restricted product**
- Reports of anti-social behaviour linked to the premises
- Evidence of proxy sales
- Sales of alcohol outside trading hours
- Other crime and disorder connected to the premises
- Sales of counterfeit or substitute goods

As outlined in section 2 of this report this Review Application has been made because of cigarettes being sold to an underage person.

3.3 The Review Application highlights that these premises were subject to a previous Review Application made by Thames Valley Police in 2006 when two bottles of “Bacardi Breezer” were sold to an under aged person.

3.3 At the Review hearing the Committee took into account the measures that had been taken to address the issues raised by the Police, notably the implementation of a fully operational CCTV system and that the refusals register had been modified. After consideration the Committee decided to 1) Remove Mr Surinder Rajasansi as the Designated Premises Supervisor and allow a 2 month period to seek an appropriate Designated Premises Supervisor for the venue and 2) Suspend the Premises Licence for the sale of alcohol for a period of one month.

3.4 Mr Surinder Rajasansi was prosecuted for this offence and was fine £300.00p and ordered to pay £800.00p costs.

3.5 The Review Application also highlights that the business has been provided with underage sales guidance Trader Packs in 2005, 2008 and 2009. In addition the premises have been tested on 11 occasions for age restricted products with two sales being made.

3.6 The recommendations made by the Trading Standards Team are:

- That the sale of any restricted product cannot take place any later than 11.00pm.

- The introduction of an 'Over 21's only' policy for all age restricted products
- Mr Surinder Rajasansi is prohibited from selling all or any age restricted products.

It is important to note that the recommendations are that only the sale of aged restricted products should be limited to 11.00pm and not the opening times of the premises.

4. REPRESENTATIONS RECEIVED

4.1 Responses to the Review Application from relevant Responsible Authorities have been received as well as a response from the Premises Licence holder Mr Rajasansi.

4.2 Mrs Debie Pearmain the Thames Valley Police Licensing Officer has made a formal written response supporting the Review Application and of the recommendations being made. The Police also ask that consideration be given to a number of additional conditions to be imposed on the Premises Licences as follows:

- All staff involved in the sale of alcohol to be Personal Licence Holders.
- CCTV images to be kept for 31 days and made available upon the request of Thames Valley Police employees and Local Authority Licensing and Trading Standards Officers.
- DPS or nominated person to be trained on how to work the CCTV system to the standard where the nominated person is able to download any potential evidence required by Thames Valley Police employees.
- To participate in any UV marking scheme if requested by Thames Valley Police or Trading Standards.
- Refusals Register to be on the premises and kept up to date and made available upon the request of Police, Trading Standards Officers and Local Authority Licensing Officers.
- The DPS and management shall ensure that an EPOS/Till prompt system is installed and operated at all times.

The full written response is attached at **Appendix C**.

4.3 A response has been received from Royal Berkshire Fire and Rescue Service stating that they do not propose to make an representation. This response is attached at **Appendix D**.

4.4 Mr Richard Garnett Slough Borough Council NET Environmental Health Officer has made a formal written response again supporting the Review Application being made and asking for the following to be imposed on the Premises Licence:

- To participate in any UV marking scheme if requested by Thames Valley Police, Trading Standards, or the Neighbourhood Enforcement Team.
- The selling of alcohol be limited to 11pm

The full written response is attached at **Appendix E**.

4.5 A formal written response to the Review Application from the Premises Licence holder Mr Rajasansi was received on 19th December 2012. In summary Mr Rajasansi highlights that:

- The shop provides a valuable service to the working public on shift work as well as selling a number of products which he refers to as 'life savers'.
- The shop provides a late night service for HGV and coach drivers and that reducing the hours to 11.00pm would be a disservice.
- He operates a strict policy of checking identification on persons deemed to be underage.
- That the review is a witch hunt and would welcome discussions to alleviate concerns.
- Have overhauled and increased the CCTV system coverage which has reduced incidents of anti-social drinking.
- He will monitor the refusals register more closely.
- That the shop has passed other underage tests over the last 5 years.
- That the sale of cigarettes on this occasion was a case of mistaken identity.
- That prohibiting Mr Surinder Rajasansi from selling aged restricted products would be a disproportionate measure.

The full written response from Mr Rajasansi is attached at **APPENDIX F**.

5. RELEVANT GUIDANCE

The amended guidance issued under section 182 of the Licensing Act 2003 was published in October 2012 and the salient points that the Committee need to have regard to for Review Applications are detailed below.

- 11.1** The proceedings set out in the 2003 Act for reviewing premises licences and club premises certificates represent a key protection for the community where problems associated with the licensing objectives occur after the grant or variation of a premises licence or club premises certificate.
- 11.2** At any stage, following the grant of a premises licence or club premises certificate, a responsible authority, or any other person, may ask the licensing authority to review the licence or certificate because of a matter arising at the premises in connection with any of the four licensing objectives.
- 11.17** The licensing authority may decide that the review does not require it to take any further steps appropriate to promote the licensing objectives. In addition, there is nothing to prevent a licensing authority issuing an informal warning to the licence holder and/or to recommend improvement within a particular period of time. It is expected that licensing authorities will regard such informal warnings as an important mechanism for ensuring that the licensing objectives are effectively promoted and that warnings should be issued in writing to the licence holder.

11.18 However, where responsible authorities like the police or environmental health officers have already issued warnings requiring improvement – either orally or in writing – that have failed as part of their own stepped approach to address concerns, licensing authorities should not merely repeat that approach and should take this into account when considering what further action is appropriate.

11.19 Where the licensing authority considers that action under its statutory powers is appropriate, it may take any of the following steps:

- to modify the conditions of the premises licence (which includes adding new conditions or any alteration or omission of an existing condition), for example, by reducing the hours of opening or by requiring door supervisors at particular times;
- to exclude a licensable activity from the scope of the licence, for example, to exclude the performance of live music or playing of recorded music (where it is not within the incidental live and recorded music exemption);
- to remove the designated premises supervisor, for example, because they consider that the problems are the result of poor management;
- to suspend the licence for a period not exceeding three months;
- to revoke the licence.

11.20 In deciding which of these powers to invoke, it is expected that licensing authorities should so far as possible seek to establish the cause or causes of the concerns that the representations identify. The remedial action taken should generally be directed at these causes and should always be no more than an appropriate and proportionate response.

11.21 For example, licensing authorities should be alive to the possibility that the removal and replacement of the designated premises supervisor may be sufficient to remedy a problem where the cause of the identified problem directly relates to poor management decisions made by that individual.

11.22 Equally, it may emerge that poor management is a direct reflection of poor company practice or policy and the mere removal of the designated premises supervisor may be an inadequate response to the problems presented. Indeed, where subsequent review hearings are generated by representations, it should be rare merely to remove a succession of designated premises supervisors as this would be a clear indication of deeper problems that impact upon the licensing objectives.

11.23 Licensing authorities should also note that modifications of conditions and exclusions of licensable activities may be imposed either permanently or for a temporary period of up to three months. Temporary changes or suspension of the licence for up to three months could impact on the business holding the licence financially and would only be expected to be pursued as an appropriate means of promoting the licensing objectives. So, for instance, a licence could be suspended for a weekend as a means of deterring the holder from allowing the problems that gave rise to the review to happen again. However, it will always be important that any detrimental financial impact that may result from a licensing authority's decision is appropriate and proportionate to the promotion of the licensing objectives. But where premises are found to be trading irresponsibly, the licensing authority should not hesitate, where appropriate to do so, to take tough action to tackle the problems at the premises and, where other measures are deemed insufficient, to revoke the licence.

5.2 The committee should also consider and make use of the 'Yellow and Red Card' system as directed and recommended by The Department of Culture, Media and Sport (DCMS) and as approved by the Licensing Committee.

APPENDICES

Appendix A - Copy of Premises Licence for S D Wines PL004439

Appendix B - Review Application and supporting information made by Trading Standards

Appendix C - Responsible Authority Response Form by Thames Valley Police

Appendix D - Written response from Royal Berkshire Fire and Rescue Service

Appendix E - Responsible Authority Response Form by Neighbourhood Enforcement Team

Appendix F - Written response to the Review Application from Mr Kulvider Rajasani

Background papers

- The Licensing Act 2003
- Guidance issued under Section 182 of the Licensing Act 2003 - (Revised October 2012)
- Regulations (cited as the Licensing Act 2003 ([Various]) Orders 2005
- Slough Borough Council Statement of Licensing Policy - December 2010
- DCMS Guidance – Red and Yellow Card System
- LACORS Guidance to Trading Standards as a Responsible Authority: Reviews

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