

Meeting: LICENSING COMMITTEE

Agenda Item:

Date: 6 January 2009

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LICENSING ACT 2003 - REVIEW OF A PREMISES LICENCE

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1 PURPOSE

To determine the application to review the premises licence for the premises Karsan's News (also known as M&M's) of 52a High Street, Stevenage, Herts., SG1 3EF

2 SUMMARY OF APPLICATION

2.1 Summary of application

An application was received from Hertfordshire Constabulary to review a premises licence under section 51 of the Licensing Act 2003 (see appendix 1). The licensing authority accepted the application on 7 November 2008.

2.2 Grounds for review

The review application relates to the following licensing objectives:

- prevention of crime and disorder;
- public safety;
- prevention of public nuisance; and
- protection of children from harm

Details of the grounds for review are included in section 3(c) of the application form which can be found at Appendix 1, and will be expanded upon by the applicant in their presentation to the Committee. Very briefly, those grounds are that in the short time the premises has held a licence, there have been a series of credible complaints that cigarettes and alcohol are regularly being sold to children.

Licensing Manager's comment:

The review application details the complaints made since November 2007. The first two complaints pre-date the premises licence and were investigated at the time and no evidence was found of alcohol available for sale or stored on the premises.

3 BACKGROUND

3.1 Location

Karsan's Newsagents is located in the High Street of the Old Town area of Stevenage. (Please see appendix 2 for location map).

3.2 Current permissions

The current licence for this premises is attached as Appendix 3. The premises has permission to sell alcohol for consumption off the premises 6am - 6pm Monday to Saturday and 6am - 3pm Sunday.

The Committee is advised that they are able to consider the premises licence as a whole as a result of this review application.

Licensing Manager's Comment: The grounds for review suggest that the activity of the sale by retail of alcohol for consumption off the premises and the timings during which this activity can take place are of particular relevance.

3.3 Application history

	Date	Premises licence holder	Comments
Premises licence granted	17 Jan 2008	Prabhulal Karsan	This is the first time that this premises was given permission to sell alcohol. The application was granted without representations. Prior to this it was simply a newsagents.

3.4 Premises history

A warning was given to Mr Prabhulal Karsan on the 2 July 2008 by PS Moatt for alleged underage sales of alcohol.

A Fixed Penalty Notice was issued to Mr Prabhulal Karsan on the 10 October 2008 by PCSO Sherlock for the sale of alcohol to minors.

4 RESPONSIBLE AUTHORITIES

4.1 Hertfordshire Trading Standards

Hertfordshire Trading Standards have submitted a representation in support of the request made by Hertfordshire Constabulary for a review of the premises licence for Karsan's, based on the licensing objective 'Protection of children from harm'. Their representation is attached at appendix 4.

In summary, Trading Standards visited the premises four times between January

2008 and August 2008. Two of these visits were unannounced test purchases for tobacco and alcohol; both sales were refused. The other two visits were in relation to a complaint through Hertfordshire Constabulary about under age tobacco sales on 11 January 2008, for which a warning letter was issued to Mr Nemchard Karsan. Trading Standards had one further complaint about under age sales of alcohol in June 2008.

No representations have been received from the other Responsible Authorities.

5 INTERESTED PARTIES

No representations have been received from interested parties.

6 DETERMINATION OF APPLICATION FOR REVIEW OF A PREMISES LICENCE

The Committee is advised that paragraphs 11.15 – 11.21 of the Guidance under section 182 of the Act describe the powers of a Licensing Authority on determination of a review.

The following options are available to the committee under section 52(4) of the Licensing Act 2003:

- To take no further action
- To issue an informal warning
- To modify the conditions on the licence
- To exclude from the scope of the licence any of the activities applied for
- To remove the Designated Premises Supervisor
- To suspend the licence for a period not exceeding 3 months
- To revoke the licence

Licensing Manager's comment: The guidance suggests that issuing informal warnings is not appropriate where warnings have already been given, as is the case with this premises.

The Committee is reminded that conditions can only be applied to a licence if they are necessary to promote the licensing objectives, and proportionate to address the concerns raised. Any conditions added must not duplicate other statutory provisions.

The Committee is advised that Hertfordshire Constabulary have included a list of proposed conditions in their application, as detailed in appendix 1 (within appendix b attached to their application). There are some aspects of the proposed conditions that may prove difficult to enforce should the committee be minded to add them to the licence. A summary of these are below, and the Committee is invited to seek clarification from Hertfordshire Constabulary and the licence holder in the following areas:

- **Condition 1** – it is suggested that if the committee is minded to attach this condition, it is re-worded to say either all sales of alcohol must be supervised by a personal licence holder, or that only personal licence holders can make the sale

(see comments on condition 6 below).

- **Condition 2** – there is already a condition on the premises licence (annex 2, condition 4) that requires the challenge 21 scheme to operate. For clarity, the Committee may wish to make this condition more specific, e.g.. x number of posters to be displayed with a clear policy that anyone who appears to look under 21 will be asked for photo ID.
- **Condition 3** – there is already a condition on the premises licence (annex 2, condition 4) that only a valid passport or driving licence will be accepted proof of age.
- **Condition 4** – there is already a condition on the premises licence (annex 2 (2)) that requires notices to be displayed stating that no alcohol will be served to persons under 18.
- **Condition 6** – does not specify the level of training required, and therefore would be difficult to enforce. It is suggested that the Committee request from Hertfordshire Constabulary the level of training required from the Premises Licence Holder to include this in the condition. If condition 1 (above) requires the sale to be made only by personal licence holders they are, by law, required to pass a specified training course.
- **Condition 8** – there already is a condition that requires a refusal book to be kept. However, the detail of what to record in the refusals book should be included as suggested in the proposed condition.
- **Condition 10** – it is recommended that the method of informing Hertfordshire Constabulary of any attempted under age purchase is agreed at the hearing, and written into this condition.
- **Condition 11** – the standard of the CCTV system should be agreed in writing, and a copy of this agreement forwarded to the Licensing Authority.
- **Conditions 15 and 17** are duplicates.
- **General** - Where reference is made in the proposed conditions to “the DPS and Premises Licence Holder” this should be changed to one or the other. It is suggested that the responsibility should lie with the DPS.

7 OTHER CONSIDERATIONS

7.1 Stevenage Borough Council Statement of Licensing Policy 2008-2011

The following sections of the licensing authority’s statement of licensing policy apply to this application:

a) 9.8 – Shops, Stores and Supermarkets

The licensing authority will generally consider licensing shops, stores and supermarkets to sell alcohol for consumption off the premises at any times they are open for shopping.

9.9 – Shops, Stores and Supermarkets

However, it may consider there are very good reasons for restricting those hours, for example, where Police representations are made in respect of isolated shops known to be the focus of disorder and disturbance.

b) 12 – Licence Conditions (all)

c) 17.1 - Licensing and other legislation

Operators of licensed premises will have to comply with planning, environmental health, fire safety, licensing, trading standards and building control legislation when opening or adapting licensed premises.

17.2 – Licensing and other legislation

The licensing authority will seek to avoid confusion and duplication by not imposing licence conditions that are required under other legislation, except where they can be exceptionally justified to promote the licensing objectives.

7.2 Guidance issued under section 182

The committee is reminded of the Guidance issued under section 182 of the Licensing Act 2003. These particular sections are relevant to this review application:

The Review Process –11.1 – 11.10

Reviews arising in connection with crime - 1.22– 11.27

7.3 Crime and Disorder

The Committee is reminded of their duty under the Crime and Disorder Act 1998 to consider the crime and disorder implications of their decisions and the authority's responsibility to co-operate in the reduction of crime and disorder in the Borough.

7.4 Human Rights

The Committee is reminded that the Human Rights Act 1998 guarantees the right to a fair hearing for all parties in the determination of their civil rights. The Act also provides for the protection of property, which may include licences in existence, and the protection of private and family life.

7.5 Appeal

The decision by the Committee following the hearing does not take effect for 21 days or if an appeal is made, until the appeal is decided. Any appeal must be made to the Magistrates court.

BACKGROUND DOCUMENTS

- Licensing Act 2003
- Stevenage Borough Council, Statement of Licensing Policy
- National Guidance issued under section 182 of the Licensing Act 2003

APPENDICES

- Appendix 1 - Copy of application
- Appendix 2 - Location map
- Appendix 3 - Current Premises Licence
- Appendix 4 - Representation from Hertfordshire Trading Standards