

STEVENAGE BOROUGH COUNCIL

LICENSING COMMITTEE MINUTES

Date: Tuesday 6 January 2009

Time: 10.00 a.m.

**Place: COUNCIL CHAMBER, DANESHILL HOUSE, DANESTRETE,
STEVENAGE**

Present: Councillors: P.D. Kissane (Chair), C. Latif (Vice Chair), John Lloyd, CC, M. Notley, L.G. Strange and P. Stuart. Agenda Item: **2**

In Attendance: Emma Rose, Head of Environmental Health & Licensing, SBC, Heather Morris, Licensing Manager, SBC, Prabhjit Sobti, Principal Solicitor, SBC, Pat Wilkings, Clerk SBC, Sgt. J Moatt, Hertfordshire Constabulary, PC Estes, PC Vince, PCSO Sherlock, G. Akroyd, Hitchin Police Station, V Burc, Trading Standards, J Haynes, Trading Standards, Mr Karsan, Licence premises Holder

Start/End Time: Start Time: 10.00am
End Time: 12.10pm

1 APOLOGIES FOR ABSENCE AND DECLARATIONS OF INTEREST

The Chair apologised for the late start of the meeting.

Apologies for absence had been submitted on behalf of Councillors M Cherney-Craw, PEJ Gallagher, L Knight, L Martin-Haugh, J Pickersgill, J Thomas, and B Underwood.

There were no declarations of interest.

2 PROCEDURE FOR LICENSING HEARING

The procedure to be followed at the Hearing had been circulated with the agenda papers and was noted.

3 LICENSING ACT 2003 - REVIEW OF A PREMISES LICENCE

The Chair welcomed all parties to the Hearing and introduced the Members of the Committee and officers in attendance.

The Clerk introduced the Applicant, representatives from Trading Standards and the Licence Holder to the Hearing.

The Head of Environmental Health and Licensing advised the Committee that an

application had been received from Hertfordshire Constabulary to review a premises licence for Karsan's News, also known as M&M's at 52a High Street, Stevenage, SG1 3EF under section 51 of the Licensing Act 2003.

The Head of Environmental Health and Licensing stated that the review application related to the following licensing objectives:

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

The Head of Environmental Health and Licensing advised that the grounds for the review were that in the short time that the premises had held a licence, there had been a series of credible complaints that cigarettes and alcohol had been regularly sold to children.

The Head of Environmental Health and Licensing noted that some of the photocopies appended to the report were of a poor quality and to ensure that those present at the Hearing were fully informed, she read out the witness statements and summary reports. She provided background information of the premises licence, which included the current permissions, application history and premises' history and drew Members' attention to the representations received in respect of the application by Hertfordshire Trading Standards.

She also advised that any action that the Committee decided to take should be fair and reasonable and drew Members' attention to the suggested conditions made by the Police Authority, as well as the Licensing Act 2003 and Stevenage Borough Council's Policy and Guidance

No questions were asked of the Head of Environmental Health and Licensing by Members of the Committee, the Applicant or the Licence Holder.

The Chair then invited the Applicant to address the Committee.

Sergeant James Moatt put the Hertfordshire Constabulary's case to the Committee.

Sergeant Moatt outlined the grounds of the review and repeated that those were:

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

He drew Members' attention to the witness statements in the application, which related to under age children being able to purchase alcohol from the premises and the subsequent anti social behaviour problems that resulted from the sales.

He particularly mentioned that on one occasion, a young female had been taken to hospital and treated for the effects of alcohol. He added that Karsan's was along the route that children took when going to and from two local schools.

He explained that the Police preferred not to prosecute if possible but work with

licence holders. He confirmed that the Police Authority was keen to provide support to Mr Karsan, the Licence Holder by offering advice and training so that alcohol could be sold in a responsible way. He added that the Licence Holder had been invited to join OFF WATCH but had failed to join or attend any of the meetings. The Licence Holder had also been invited to an AGE CHECK seminar by Trading Standards but had, again failed to attend the seminar, despite reminders from Trading Standards.

Sergeant Moatt drew Members' attention to a list of suggested licence conditions and added that it would be requested that the licence be suspended until the conditions had been met to allow the DPS and Licence Holder to achieve the conditions.

Sergeant Moatt then introduced PCSO Sherlock who had been the PCSO for the Old Town area for three years. PCSO Sherlock advised that children had been found wandering behind Elmes building yard where alcohol had been found stashed on a number of occasions.

The Chair invited Members of the Committee to put any questions to the Applicant.

In response to a question, Sergeant Moatt confirmed that CCTV was in place at the premises but it was not very helpful in providing evidence of under age sales of alcohol as there was no proper viewing facility available and it was extremely difficult to download footage.

The Licence Holder and representatives from Trading Standards had no questions to put to the Applicant.

The Chair then invited the representatives from Trading Standards to address the Hearing.

The representative from Trading Standards advised that they supported the request made by Hertfordshire Constabulary for a review of the premises licence, based on the licensing objective of 'Protection of children from harm'.

No questions were asked of the representative from Trading Standings by the Committee, Applicant or the Licence Holder.

The Chair then invited the Licence Holder, Mr Karsan, to address the meeting.

Mr Karsan apologised for not attending the OFF WATCH and AGE CHECK meetings. He stated that he had been at the premises for over 25 years and had only had the licence to sell alcohol for one year. He said that he was very concerned to hear the evidence that had been given at the hearing regarding the sale of alcohol to under age children and requested that his licence be withdrawn. He also said that he was willing to work with Sergeant Moatt.

The Chair asked Mr Karsan to confirm that he wanted to surrender his licence straight away and Mr Karsan confirmed his request.

At this juncture, the Head of Environmental Health and Licensing expressed her concern that Mr Karsan may not have fully understood what his options were as he

was not legally represented at the Hearing. She explained she could not advise him which was the best option for him, but could explain the options available. She then explained that if he surrendered his licence and later wanted to sell alcohol again, he would have to apply for a new licence which would cost him the same amount of money as when he made the original application. She explained that if the Committee considered the evidence and decided to suspend the licence for up to 3 months, he would get the licence back and if he later decided to surrender it he could. The Head of Environmental Health and Licensing requested a short recess so that Mr Karsan could consider his options.

The Principal Solicitor, SBC also explained to Mr Karsan that if he surrendered his licence straight away, he would not be able to sell alcohol and would have to make a new application from scratch.

The meeting then adjourned.

The meeting reconvened at 11.30am and the Head of Environmental Health and Licensing advised that Mr Karsan had asked her to explain to the Committee that he had decided that he did not wish to surrender his premises licence but work with the Police Authority as suggested.

Mr Karsan then addressed the meeting and said that he might have sold alcohol to children. He had been upset to hear that some children had been taken to hospital and he wished to work with the Police over the next three months. He added that if he felt that there was still a problem with under age sales after that time, he would voluntarily surrender his licence.

The Applicant and representative from Trading Standards had no questions to put to the Licence Holder.

The Applicant, police officers, representatives from Trading Standards, the Licence Holder and SBC officers withdrew from the meeting whilst the Committee considered the matters raised.

Following due consideration, all parties were invited back into the meeting.

The Chair welcomed everyone back to the meeting and stated that he was pleased to see the co-operation between the Police, Trading Standards and the Licence Holder.

It was **RESOLVED** that:

Having taken into consideration the licensing objectives, the Council's Licensing Policy and the Licence Holder's Human Rights, the Committee have decided that the licence will be suspended for a period of three months, which the Committee think is necessary for the Licence Holder to be fully compliant with his licence conditions and laws.

The following conditions will apply:

1. All sales of alcohol shall be supervised by a personal licence holder.

2. In addition to condition (4) within Annex 2, the DPS shall ensure that there are on display a minimum of 3 'Challenge 21' posters/notices; by the entrance, at the point of sale and at each location where alcohol is available for sale
3. In addition to condition (4) within Annex 2, a PASS approved card is also an acceptable method of identification
4. In addition to condition (2) within Annex 2, notices should also include "or persons purchasing alcohol on behalf of person less than 18 years of age".
5. The DPS shall provide monthly refresher training to all staff covering the law on under age sales, proxy purchasing, the Challenge 21 policy, ID policy and premises licence conditions. A written record of this refresher training shall be kept on site and made available for inspection on request from a Police, Trading Standards or Licensing Officer.
6. In addition to condition (5) within Annex 2, the refusals book shall detail the following:
 - a. the date
 - b. time
 - c. description of refusal
 - d. who made the refusal
 - e. A record will also be kept in the refusals book of each time an age check is requested.
 - f. This book shall be checked and signed weekly by the DPS to demonstrate that this check has been completed.
7. The DPS will notify the Police licensing department by e-mail or fax of any attempted under-age purchase, including proxy purchases, within 24 hours of the attempt.
8. The DPS will ensure that the CCTV adequately covers all sales areas and is continually recording 24 hours a day. The DPS shall keep viewable, unedited CCTV recordings, on site, for a period of not less than 28 days and make them available for inspection by the Licensing Authority and the Police. Any failures of the CCTV system shall be recorded in writing.
9. The DPS shall notify the Police licensing department at Hitchin Police Station and the Local Authority Licensing Department on any occasion when the CCTV system is to be in-operative for a period in excess of one working day. The notice will include the measures being taken to ensure the system is restored to the standard required by Hertfordshire Constabulary
10. The DPS shall be a member of and participate in any existing off-licence watch that is supported by the Police and Local Authority.
11. Premises are not permitted to sell alcohol before 9am.

The Licence Holder has the right to appeal the decision to the Magistrate's Court within 21 days."

4 URGENT PART I BUSINESS

There were no urgent Part I items of business to consider