



Leicester
City Council

Notes of the
HEARING UNDER THE LICENSING ACT 2003

Held: FRIDAY, 11 JULY 2014 at 9:30am

P R E S E N T :

Councillor Clarke

Councillor Dr Barton

Councillor Shelton

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1. APPOINTMENT OF CHAIR

Councillor Clarke was elected as Chair for the meeting.

2. APOLOGIES FOR ABSENCE

There were no apologies for absence.

3. DECLARATIONS OF INTEREST

Members were asked to declare any disclosable pecuniary or other interest they may have in the business on the agenda.

There were no declarations.

**4. APPLICATION FOR THE REVIEW OF AN EXISTING PREMISES LICENCE:
SCHNAPS OFF LICENCE, 39 WESTERN BOULEVARD, LEICESTER, LE2
7HN**

The Director, Environmental Services, submitted a report that required Members to determine an application for a review of an existing premises licence for Schnaps Off Licence, 39 Western Boulevard, Leicester LE2 7HN.

Members noted that a representation had been received in respect of the application which necessitated that the application for the review of an existing premises licence had to be considered by Members.

Mr Mustafa Keles, the Premises Licence Holder (PLH) and Mr Abdul Rauf staff employee at the premises were present at the meeting. PC Webb, Leicestershire Police was present. The Licensing Officer and the Solicitor to the hearing panel were also present.

The Licensing Officer presented the report. It was noted that the review application had been made by the Leicestershire Police on 28th May 2014 on the grounds of the protection of children from harm. Colour photographs of the exterior of the premises were circulated at the meeting.

PC Webb outlined the reasons for the review application and answered questions from Members:

- In the last 12 months two test purchases had been failed at the premises by selling alcohol to underage persons despite a request from the premises licence holder for a Challenge 21 pack and a refusals register being kept and staff being trained.
- The premises had been trading since May 2012 and Mr Keles was an experienced Designated Premises Supervisor who had always worked with the police.
- The 1st test purchase took place on 9 November 2013 at 5.59pm, when a 15 year old female was sold a bottle of wine by Mr Keles. As PC Webb approached the premises Mr Keles was already on the doorstep and said that he had realised what he had done, but the sale had been concluded.
- During the “alcohol test purchase” operation, 13 premises were visited and 3 of those sold alcohol to underage persons.
- An £80 penalty notice was issued and prevention techniques were discussed with Mr Keles who was appreciative of what went on.
- The 2nd test purchase took place on 15 April 2014 at 7.04pm and involved the same young person; there was 1 member of staff in the shop who sold cider to her. PC Webb returned to the shop and spoke to Mr Keles who had been out at the back of the premises at the time. The member of staff, Mr Rauf, admitted not looking at the girl properly to consider her age.
- A £90 penalty notice was issued, there having been an increase in penalty charges in the intervening gap between the 2 incidents.
- The premises were situated in an area frequented by a lot of young people and there needed to be a robust challenge process in place.
- The shop predominantly sold alcohol and if a person was not in the correct frame of mind they shouldn't be on duty.
- The Leicestershire Police asked that a number of conditions be considered by the committee to address the issue:
 - a. All alcohol sales be made by the holder of a Personal Licence,
 - b. The licence holder to introduce an age verification policy requiring the production of “proof of age” for any sale where there was a suspicion that the customer was under 25. Such proof to be in the form of a valid passport, driving licence, P.A.S.S. hologram card or HM Forces identity card,
 - c. The licence holder to ensure that a minimum of 5 notices were displayed in prominent positions on the premises informing customers that Challenge 25 operated on the premises,
 - d. The licence holder to ensure the premises have a digital CCTV system installed and that images were recorded at all times during the premises opening times and retained for a minimum of 31 days.

The system should be maintained in accordance with the Information Commissioners CCTV Code of Practice and recorded images made available to Police or Responsible Authorities within 24 hours of making a formal request being made,

- e. The licence holder should ensure all staff were trained at 3 monthly intervals and that the training would be documented. The training must include their responsibilities in relation to the Licensing Act 2003 and Age Verification procedures as a minimum before they are allowed to sell alcohol. A signed record of the training and a copy of the documented training to be kept on site and made available to any responsible authorities on request,
- f. The licence holder will operate and maintain a refusals register which must remain on the premises and be made available immediately upon request to any responsible authority.

Mr Keles was then given the opportunity to present his submission during which he made the following points and answered questions from Members:

- Mr Keles had been in business since 2006 and previously had premises in the city centre.
- During the 6 years at the city centre premises he had never sold alcohol to anyone underage.
- Mr Keles accepted he had made a mistake with these 2 sales and apologised, he said there were no excuses for it and he was trying to do his best to improve service and remain in business.
- Mr Keles had arranged for alcohol training courses and had put up posters for Challenge 25 in the shop.
- All staff would be doing the personal licence course in September and would be going through training booklets and completing online courses too.
- There was a new DPS and that person was checking and keeping records.
- The new DPS was training the staff and ensuring regular refresher training every 3 months.
- Mr Keles still held a personal licence and Mr Koz the new DPS was on the premises 3+ days per week and he was also a personal licence holder.
- At the time of the first failed test purchase Mr Keles' father had been very ill and passed away a fortnight earlier, Mr Keles was emotional at the time and wasn't concentrating properly and realised soon afterwards that the sale was wrong.
- Mr Rauf told members that at the time of the second failed test purchase he had been working long hours and had had an argument with his wife. The argument had continued and at the time of the sale he was on the phone and not concentrating.
- Mr Keles confirmed that at any one time there were 3 people employed in the shop.

All parties were then given the opportunity to sum up and make final comments.

PC Webb confirmed that Mr Keles had shown willingness to work with the police and he was trying to change the business.

PC Webb said that the conditions on the existing licence were not strong enough and that was why additional conditions were sought.

Prior to deliberation, the Solicitor to the hearing panel advised Members of the options available to them in making a decision.

In reaching their decision, Members felt they should deliberate in private on the basis that this was in the public interest, and as such outweighed the public interest of their deliberation taking place with the parties represented present.

Mr Keles, Mr Rauf, PC Webb, the Licensing Officer and the Solicitor to the hearing panel then withdrew from the meeting.

The Members then gave the application full and detailed consideration.

The Solicitor to the hearing panel was recalled to give advice to Members on the wording of their decision.

Mr Keles, Mr Rauf, PC Webb, and the Licensing Officer were recalled to the meeting.

The Chair informed all persons present that they had recalled the Solicitor to the hearing panel for advice on the wording of their decision.

RESOLVED:

That following the application for a review of an existing premises licence for Schnaps Off licence, 39 Western Boulevard, Leicester LE2 7HN, the Committee decided to modify the licence in line with the police representation with the following conditions deemed necessary and proportionate:

- a. All alcohol sales be made by the holder of a Personal Licence,
- b. The licence holder will introduce an age verification policy requiring the production of "proof of age" for any sale where there is a suspicion that the customer is under 25. Such proof must be in the form of a valid passport, driving licence, P.A.S.S. hologram card or HM Forces identity card,
- c. The licence holder will ensure that a minimum of 5 notices are displayed in prominent positions on the premises informing customers that Challenge 25 is in operation on the premises,
- d. The licence holder will ensure that the premises have a digital CCTV system installed and that images are recorded at all times during the premises opening times and retained for a minimum of 31 days. This system will be maintained in accordance with the Information Commissioners CCTV Code of Practice and recorded images will be made available to Police or Responsible Authorities within 24 hours of making a

- formal request being made,
- e. The licence holder will ensure that all staff are trained at 3 monthly intervals and that the training is documented. The training must include their responsibilities in relation to the Licensing Act 2003 and Age Verification procedures as a minimum before they are allowed to sell alcohol. A signed record of the training and a copy of the documented training to be kept on site and made available to any responsible authorities on request,
 - f. The licence holder will operate and maintain a refusals register which must remain on the premises and be made available immediately upon request to any responsible authority.

In addition the Committee decided to remove conditions 1, 2 and 4 from Annex 2 of the existing licence, condition 1 being superseded by this decision and conditions 2 and 4 not being necessary.

The Committee were impressed with the representations that were made in a professional manner and whilst personal circumstances could not be the committee's primary consideration they noted those circumstances. The Committee did not feel that a suspension or revocation of the licence would be proportionate given what they had heard from everyone making representations.

5. CLOSE OF MEETING

The meeting closed at 10.25am.