



LICENSING ACT 2003

Application for a New Premises Licence Decision Record

APPLICANT: Hampshire County Council Trading Standards

PREMISES: No. 11 Station Road, Aldershot, Hampshire, GU11 1HT

DATE OF HEARING: 10th October, 2016

MEMBERS SITTING: Cllr Liz Corps, L.A. Taylor (Chairman) and J.E. Woolley

DECISION

To revoke premises licence no 15/00517/LAPRET held in respect of Station Corner Shop, No. 11 Station Road, Aldershot, Hampshire, GU11 1HT.

REASONS

The Sub-Committee is satisfied on the balance of probabilities, that this step is appropriate for the promotion of the licensing objectives of the prevention of crime and disorder and the protection of children from harm.

In coming to its decision, the Sub-Committee has taken into account:

- The Licensing Act Section 52, which states that, having regard to the application and any relevant representations, the Sub-Committee must take such steps it considers appropriate for the promotion of the licensing objectives;
- The Secretary of State's Guidance issued under section 182 of the Licensing Act 2003, particularly:
 - paragraph 2.22 which states that the government believes it to be completely unacceptable to sell alcohol to children and paragraph 2.26 concerning conditions relating to the protection of children from harm;
 - paragraphs 11.26 – 11.27 which state that where premises have been used for criminal purposes, the licensing authority's duty is to take steps with a view to the promotion of the licensing objectives in the interests of the wider community and not those of the individual licence holder. Also the sale and storage of smuggled tobacco and alcohol is a criminal activity that should be treated particularly seriously in connection with licensed premises;
- The Council's Statement of Licensing Policy 2010–11, especially paragraph 14.23 which lists the matters that will be taken particularly seriously by the licensing authority and which may lead to a consideration of revocation. These include the use of the premises for the purchase of alcohol by minors and the sale of smuggled alcohol and tobacco. (The Sub-Committee recognised that the Council's Licensing Policy has yet to be revised following changes in the legislation and has disregarded any parts that are now out of date);
- It also took into account all the written and oral evidence presented at the hearing.

The Sub-Committee heard evidence from Hampshire Trading Standards

that there had been two failed test purchases, the first in February 2016 and the second in July 2016, when alcohol had been sold to a 16 year old and 15 year old respectively, on each occasion by a different assistant who, when questioned, claimed not to work at the shop.

Also, smuggled non UK duty paid tobacco and smuggled non UK duty paid cigarettes had been found on the premises in July 2015, and in July 2016 further smuggled tobacco was found together with chewing tobacco not carrying the required health warnings. These items were seized on both occasions.

In September this year, it was found that Macthka vodka seized from the shop did not have a duty stamp attached to the bottle and Meya kpbB wine had no UK labelling to show that duty had been paid. In addition, a duty stamp on Queen Margot Whisky was found not to be genuine.

Despite advice given by Trading Standards to Mr Arora following the first failed test purchase, it did not appear that any steps had been taken to prevent a further failure.

The Sub Committee also heard evidence from Rushmoor's Licensing Service as Responsible Authority who first visited the premises on 29 July 2016 following the second failed test purchase in July 2016 and then again in September 2016. A timescale to rectify breaches of conditions observed in July was agreed with Mr Arora but when the officer revisited the premises in September 2016, no training records were available for inspection and none of the issues identified had been rectified. The member of staff on the premises at the time of the second visit was unaware of the requirement to record refusals and a refusals log was not on the premises. The first time records had been seen was at the hearing.

The police officer gave evidence that he had also been present at an inspection of the premises in February 2016 when chewing tobacco was seized; Mr Arora was vague about where this had been obtained from.

Mr Arora gave evidence that he bought the alcohol from a Romanian grocery supplier whose name he did not know, but who visited his premises every few months. He was not able to provide any invoices to the Sub-Committee as he was still waiting for them. He said that he was unaware of any problem with the items until pointed out to him when first inspected. He did, however, accept responsibility for having the same type of goods on his premises when subsequently visited and had offered them for seizure. The Meya kpbB wine was old stock left behind when he purchased the premises.

He said that he left people to run the shop for short periods when he was unwell or visiting the cash and carry. As he was only going to be absent for an hour he had not given them training. He said that he had taken home the refusals log and training records for a few weeks whilst the shop was being refurbished, although he agreed that the shop had been shut only 3 to 4 days.

Following an adjournment to allow him to fetch records from his

premises, he produced a refusals log and a training record but failed to produce any invoices related to the non UK duty paid items.

So far as the business was concerned, he said that he sold chocolate, newspapers, soft drinks and groceries in addition to alcohol and tobacco products. There was approximately a 50/50 split in sales between alcohol and tobacco products and the rest.

He also stated that if the licence was not revoked it was his intention that one of his more experienced brothers would take over the running of the premises although he would continue to own it.

Having heard all the evidence, the Sub-Committee did not accept Mr Arora's explanation about the absence of the refusals log or training records. It noted that the refusals log contained gaps despite the clear example given and there were inconsistencies between entries and the evidence given by the responsible authorities. There was no information whatsoever giving the names and/or descriptions of persons who had been refused sales, or any observations regarding the refused sales. The training record contained only two brief entries, one in 2015 and one in 2016, despite it being a condition of the premises licence that staff members should be given refresher training every six months.

There was no dispute about the status of the goods seized, and the Sub-Committee considered that the evidence showed a pattern of operation that was likely to continue.

The sale of alcohol to minors under 18 was particularly concerning and the Sub-Committee had no confidence that this would stop.

It did not take into account evidence that items regarded as drugs paraphernalia were being offered for sale as this was lawful.

The Sub-Committee considered the alternative courses of actions available to it and noted that all responsible authorities believed that imposing new conditions would not address the problem. It agreed and doubted that any new conditions imposed would be complied with.

It had no confidence in the way Mr Arora was running the business, or in his commitment to compliance with legal requirements. If removed as Designated Premises Supervisor his stated intention to bring in another family member to take over, together with his continued ownership of the premises, would result in him continuing to have a strong influence in its management, which was unacceptable.

Finally, all the responsible authorities had urged the Sub-Committee to consider revocation of the licence, which it agreed was a consideration to be given substantial weight.

For these reasons and having accepted the evidence of criminal activity including the sale of alcohol to minors, the Sub-Committee concluded that revocation of the premises licence was an appropriate step to promote the licensing objectives. It noted that the business could continue to trade in other goods.

