

Decision notice

Reviews of Premises Licences

Dalkeith Convenience Store, 10-11 Dalkeith Place

Date of hearing – 23rd January 2013 at 2pm

1 The Decision

1.1 That the Designated Premises Supervisor Neelam Paul be removed.

1.2 That the following additional conditions be placed on the premises licence;

1.2.1 The Designated Premises Supervisor shall possess a “National Certificate for Designated Premises Supervisors” or equivalent nationally recognised qualification approved by the licensing authority and the police prior to appointment.

1.2.2 A personal licence holder shall be on duty at all times alcohol is for sale during trading hours.

1.2.3 All staff shall be trained in relation to the sale of alcohol to drunks and underage persons and details of this training and training records are to be maintained and produced immediately to the licensing authority or police upon request.

1.2.4 Display posters in premises regarding age limit of 21 for alcohol sales.

1.2.5 CCTV equipment shall operate within the premises and recordings shall be retained for a minimum of 31 days. A copy of any recordings will be provided to the police upon request.

1.2.6 The operator shall ensure that the sale or supply of alcohol to any person appearing to be under the age of 18 years will only be made when appropriate proof has been given to verify the age of the purchaser. Suitable Challenge 21 literature shall be displayed within the store.

1.2.7 The operator shall ensure that a refusals register is maintained and kept on the premises in relation to age restricted goods. This should be

made available for inspection by the police/trading standards when required.

1.2.8 The operators shall ensure that in order to secure the promotion of the licensing objectives, and for the safety of the stores employees, between the opening hours of 7pm and 3:30am on any day of the week, a minimum of two members of staff shall be working on the premises. If at any time during this period the staffing level cannot be fulfilled the store entrance should be secured and all sales made via a serving hatch kiosk.

2. Evidence considered

2.1 In arriving at the decision the Committee considered statements from Northamptonshire Police provided by Temporary Sergeant James Atter, PC Simon Johnson and PC Victoria Thomas.

2.2 Mr Joginder Paul, a director of the premises licence holder company, made a brief representation to the committee. It also heard briefly from Mrs Neelam Paul, the Designated Premises Supervisor (“DPS”) of Dalkeith Convenience Store and Daughter in Law of Mr Joginder Paul.

3. Facts on which the decision is based

The Committee were satisfied as to the following facts:

3.1 An application to transfer the Premises Licence from Milkai Limited to Paul Stop and Shop Number 2 Limited was unopposed by Northamptonshire Police. For the purposes of the committee the Premises Licence Holder (“PLH”) of the premises is now Paul Stop and Shop No. 2 Limited

3.2 The Police have had concerns about the conduct of the business at the premises since 2011 and in particular about the conduct on the premises of one Kamal Paul, the son of Mr Joginder Paul and husband of the current DPS, although he is not the premises licence holder (“PLH”) nor he is a director or the company secretary of Paul Stop and Shop No.2 Ltd. He was however the director of the previous PLH company, Milkai Limited. This person was not the Designated Premises Supervisor, was not a Personal Licence Holder and was not employed

at the premises. The committee heard that Kamal Paul is no longer involved with the premises.

3.3 Northamptonshire Police are also concerned that the premises was effectively been used by patrons to buy alcohol cheaply to be consumed between visits to other licensed premises and after other premises had closed and this was a failure to promote the licensing objectives. They were also concerned that there is an issue surrounding discarded alcohol containers in Kettering town centre generally.

3.4 On Friday 17th August at around 22:00 hours a Personal Licence Holder working at the premises, and DPS of another licensed premises known as Pauls Stop and Shop in Montagu Street, Kettering, is alleged to have knowingly sold alcohol to a person who was drunk, which is an offence under section 141 of the Licensing Act 2003. The Committee heard that this person disputes this allegation and the matter is listed for trial in March 2013.

3.5 Although not required to reach a decision on culpability for an alleged offence, the Committee have a duty to determine whether problems associated with alleged crimes are taking place on the premises and affecting the promotion of the licensing objectives. The Committee considered that there is one allegation in relation to these premises and that the offence is disputed by this individual.

3.6 On 9th October 2012 a male employee working at the premises was questioned by a constable of Northamptonshire Police about his authorisation to sell alcohol at those premises. This person was not a Personal Licence Holder. The Police subsequently contacted the DPS and advised her about authorising her staff to sell alcohol and the need to train members of staff in relation to licensing law.

3.7 On 12th October 2012 PC Thomas of Northants Police witnessed an underage sale of alcohol to a 17 year old male take place at the premises. This was conducted by an employee working at the time. This employee was not a Personal Licence Holder and informed the

police that she had not requested identification from the male in question. The employee was not prosecuted.

3.8 The Committee heard that there are no enforceable conditions regarding CCTV on the premises licence.

3.9 The DPS of the premises, Mrs Neelam Paul, was questioned by the Committee about her knowledge of the four licensing objectives. She was unable to state the four objectives to the satisfaction of the committee.

3.10 The Committee noted that throughout the hearing, Mr Kamal Paul, about whom the police have made representations about his suitability to be involved with licensed premises, interacted frequently with the representative for the PLH and frequently handed him documents from a file and handwritten notes, despite him not being a personal licence holder, a DPS or having any involvement with the premises other than being the son of a director of the PLH.

4 Reasons

4.1 In considering whether steps were appropriate in relation to the premises the committee had regard to the Council's licensing policy and guidance under section 182 of the Licensing Act 2003.

4.2 The committee was informed by the representative of the PLH that the statutory consultation notice was not displayed outside the premises during the statutory consultation period. The committee was informed by the Health Services Manager that this notice had been erected outside the premises at the start of the consultation period and that he had not been informed by any person that the notice had been removed. In the absence of any evidence from the PLH to refute the assertion of the Health Services Manager, the committee considered that the statutory notice had been properly displayed outside the premises during the consultation period.

4.3 It was clear to the committee that the DPS, Neelam Paul, had insufficient knowledge of licensing law, practice and the licensing objectives, as evidenced by her failure during the hearing to state the four

objectives. Taken together with the unproven allegation that a member of staff working under the DPS' authority sold alcohol to a drunken person and that another member of staff admitted selling alcohol to a juvenile, the committee found that there was insufficient control exercised by the DPS over the premises and that the training provided to members of staff was unsatisfactory. Accordingly, the committee considered that it was appropriate that the current DPS should be removed.

4.4 The issues regarding insufficient knowledge of the licensing objectives, the nature of the premises and lack of evidence of proper training given to employees warranted an appropriate condition being placed on the premises licence requiring the new DPS to possess a national certificate for designated premises supervisors and that all staff must receive training in relation to the sale of alcohol to drunks and under-age persons.

4.5 The committee noted that there was no formal requirement on the premises licence to have CCTV recording at the premises and to keep a register of refusals and to provide this to the police upon request. They found it appropriate that such a condition should be inserted into the premises licence

4.6 The committee gave consideration to the request by the police for a reduction in licensing hours. However, having examined the evidence and taking account of licensing policy, it was unable to conclude that such a restriction was appropriate to further the licensing objectives. This review was not the appropriate forum for making any finding as to the acceptable hours for the sale of alcohol to members of the public within Kettering from so called "off-licences". However, should any evidence of public nuisance or crime and disorder at the premises arising from the supply of alcohol from these premises in the early morning be placed before any future review hearing, a restriction of hours may be considered.

4.7 Nevertheless a condition requiring a minimum of two members of staff to be working at the premises between the opening hours of 7pm and 3:30pm and that if at any point during this period that staffing level cannot be fulfilled the store entrance should be secured and sales made via a

