

LICENSING (LIQUOR AND GAMBLING) PANEL

Date: 10 November 2014

Venue: East Northamptonshire House, Cedar Drive, Thrapston

Time: 10 am

Present: Councillors: Pauline Bradberry JP
Glenvil Greenwood-Smith
Andy Mercer

Also present:

Julia Smith
(Health Protection Manager)
Rita Groves
(Licensing Enforcement Officer)
Mrs Dorothy Maxwell
Mrs Kathleen Knight
Mr Jason West
Mr V Natkunam
Mr B Wain
Mr James McLaughlin

Mebs Kassam
Barbara Wiggins

Representing

East Northamptonshire Council

East Northamptonshire Council

Representative

Representative

Representative

Applicant

Applicant's Agent

Democratic and Electoral Services Manager
and Deputy Monitoring Officer

Legal Advisor to the Panel

Democratic Services Officer

1. APPOINTMENT OF CHAIRMAN

RESOLVED:

That Councillor Glenvil Greenwood-Smith be appointed Chairman of the Panel for this hearing.

2. APOLOGIES FOR ABSENCE

There were no apologies for absence.

3. DECLARATIONS OF INTEREST

Councillor	Nature of Interest	DPI	Other
Andy Mercer	AM is a Member of Rushden Town Council, but not a member of the Committee which made the decision to make representations.		Yes

The Health Protection Manager noted that one of the residents who had made representations had passed away since making comments and therefore that evidence would be not be taken into account at the Hearing.

Prior to the commencement of business, the Chairman noted that additional information had been provided to the Council after the consultation period. The Chairman requested the Applicant's Agent, Mr B Wain, to confirm whether or not he would object to the new information being considered as part of the Hearing. Mr Wain confirmed that he would not be prepared to allow this further information to be taken into account.

Mrs Maxwell had objected that the information would not be taken into account. The Deputy Monitoring Officer confirmed that the additional information had been dealt with according to the Hearings Regulations requirements and noted that it would be a matter for the Panel to determine whether to consider the additional information. .

4. APPLICATION FOR A NEW PREMISES LICENCE FOR 110 HIGHAM ROAD, RUSHDEN, NN10 6DF

The Health Protection Manager reported on an application for a new premises licence for 110 Higham Road, Rushden, NN10 6DF under the Licensing Act 2003.

The matters for which a new premises licence was sought were detailed below.

Supply of Alcohol

Everyday 0700 – 2100

Members noted that an application for a new licence at the premises had been received on 11 September 2014. The appropriate notices had been displayed during the required consultation period and as a result of the consultation, representations had been received from:

- East Northamptonshire Council's Licensing Enforcement Officer,
- The Town Council, and
- Members of the public

The representation received from the Licensing Enforcement Officer related to research which had been undertaken into the licence holder and DPS, and the investigations undertaken by the Police. No link between the applicant and the previous licence holder had been established.

The representation received from the Town Council detailed problems experienced with respect to litter, vandalism and anti-social behaviour under the previous licence, and identified concerns that this would also occur on issue of this licence.

The representations received from the public detailed issues they had had from the premises under the previous licence and concern that these would again be an issue if a licence was granted. Representations related to concerns that all four licensing objectives would not be met. There was strong concern that the previous licence holder and the proposed licence holder were linked, and as such there would be similar issues experienced as with the previous licence, such as under age sales.

Evidence from Applicant

Mr B Wain spoke on behalf of the Applicant. He thanked the Panel for re-convening the

Hearing from 4 November, which had been due to holidays.

Mr Wain confirmed that this was a new premises licence application for the sale of alcohol. Mr Wain also confirmed that he was aware of the investigations carried out by the Police and East Northamptonshire Council regarding the sale of alcohol at the Applicant's current premises and the possible link between the previous licence holder of 110 Higham Road and the Applicant, Mr Natkunam. Mr Wain confirmed that he had suggested certain conditions be included on the licence and advised that Mr Natkunam would be willing to work with the Council to carry out his obligations should the licence be granted.

Regarding the representations from neighbours, Mr Wain stated that there was no evidence to suggest that either drugs or anti-social behaviour would be a cause for concern at the premises. He believed Mr Natkunam was a man of good character. Mr Wain again confirmed that Mr Natkunam did not know the previous licence holder and had not failed a test purchase in his current premises.

Questions to the Applicant

Following questions from the Panel regarding toilet and hand washing facilities, the Applicant stated that there were separate facilities available at the premises. Mr Wain stated that this was irrelevant as this was an application for a licence to supply alcohol.

The Panel sought answers to questions regarding the arrangements for running the business. Mr Wain advised that Mr Natkunam envisaged living at the premises in Rushden, but until such time as a new lease could be arranged he would be travelling from his current address in Milton Keynes. Family members would staff the shop when Mr Natkunam was unavailable. Mr Wain confirmed that Mr Natkunam would be relinquishing responsibility for the shop in Milton Keynes if a licence was granted for the Rushden premises.

Evidence from Representative Jason West

Mr West stated that he objected to the application on the grounds that it was a "ghost" application. He was concerned about the sale of alcohol to children. Mr West believed there was a history of selling alcohol to children and anti-social behaviour linked to the premises.

Discussion was held on the internal layout of the premises and the Panel had sight of an A3 plan provided at a previous planning application in 2010.

Questions to Representative

Mr Wain stated that Mr West was not in a position to say categorically that Mr Natkunam would sell alcohol to children and what evidence could be provided?

Evidence from Representative Mrs Dorothy Maxwell

Mrs Maxwell confirmed that she lived at 99 Higham Road, Rushden and also represented neighbours at 101, 103, 104, 105 and 108 Higham Road and residents in Prospect Avenue at this Hearing. Mrs Maxwell also believed that this was a "ghost" application.

Much of the evidence as presented by Mrs Maxwell was inadmissible due to it being irrelevant to the Licensing Panel Hearing.

Mrs Maxwell confirmed that the shop was situated between two secondary schools and she was concerned that children would be able to purchase alcohol before and after school. Mrs Maxwell was also concerned that single cans of alcohol would be sold.

Mrs Maxwell summed up by advising that she believed granting this application would not protect children from harm, it would not prevent public nuisance and would not prevent further anti-social behaviour against nearby property, including her own.

Evidence from representative Mrs Rita Groves

Rita Groves, the Licensing Enforcement Officer (LEO), advised that she had visited the Applicant at 110 Higham Road, Rushden, along with the Police on 26 September 2014.

The Applicant advised that he had visited the store 3 times and until that day, 26.9.14, had never met the previous licence holder. Mr Natkunam confirmed that he would be working on the premises full time and family members would cover any absence. Mr Natkunam confirmed that the previous licence holder would not be working on the premises.

Mr Natkunam confirmed that leases for the retail premises and living quarters would be separate and that he would be leasing the retail premises only.

The LEO confirmed that following thorough checks, the Police would not be objecting to the granting of a licence.

The LEO also stated that she had spoken to her counterpart at Milton Keynes Council, as Mr Natkunam had previously been a DPS at a store in the City. It had been confirmed that there was no record of any convictions against Mr Natkunam and also that there were no notes against his personal licence. In fact Mr Natkunam had passed all test purchases undertaken by Milton Keynes Council.

Mrs Groves advised that, since writing the report, a colleague at Thames Valley had confirmed that there had been no issues with either Mr Natkunam or the MK city store.

Questions to the LEO

In response to a question from Mrs Maxwell about whether 1 or 2 leases would be required for the premises, Mrs Groves confirmed that she was not aware of the circumstances surrounding the provision of a lease or leases.

In summing up Mr Wain believed that the information in the Application had answered Mrs Maxwell's question about selling single cans of alcohol.

Discussion was held on the inclusion of additional conditions should the licence be granted, the length of the current lease and the time it would take for the shop to be open.

At 11.15am the Panel adjourned to make their decision.

The Panel returned at 12.30pm to announce their decision

RESOLVED:

The Licensing Panel has carefully considered this application for a New Premises Licence for 110 Higham Road, Rushden and has taken into account:-

- Licensing Officers report dated 14 October 2014.
- Representations from the applicant and his representative.
- Representations from ten members of the public. (An eleventh member died after submitting a written representation and therefore his evidence was ruled inadmissible.)
- A representation from Rushden Town Council.
- ENC's Statement of Licensing Policy and Guidance issued under Section 182 of the Licensing Act 2003, (amended April 2012).
- The Government Section 182 Guidance
- A memorandum from Rita Groves, the Licensing Enforcement Officer dated 9 October 2014.
- An email from PC Kev Murphy dated 29 September 2014.

The Panel noted that much of the evidence submitted referred to a previous Licence Holder and a previous Premises Licence at the same location. The Panel did not consider this evidence relevant to the current application.

Some issues raised were planning matters and therefore also irrelevant to this application.

The Panel considered carefully the range of issues raised by the objectors but in every single case, found them to be historic. Whilst the Panel does not doubt the objector's statements, there is no evidence to suggest the problems they highlighted will continue following the granting of this Premises Licence.

A submission was made by an objector after the 28 day limit. The Panel took legal advice and referred to the House of Lords decision of the admissibility of late submissions. As a consequence of that case law, the Panel noted that the applicant's representative objected to the admission of this late evidence. The Panel considered the objection, however they were legally advised that they could take the late representations into account if they so wished.

After careful deliberation and consideration of the Licensing Objectives, the Panel has reached the following decision.

That on a balance of probability the grant of a premises licence will not impede the promotion of the Licensing Objectives.

Therefore it is unanimously decided to:

Grant a Premises Licence, subject to:

1. The supply of alcohol be between the hours of 09:00 and 21:00 hours.
Reason – the prevention of public nuisance and the protection of children from harm. The Panel wanted to prevent the purchase of alcohol by children before attending school. The prevention of opportunity of late night disturbance in a residential area.

All mandatory conditions will apply.

Additionally, the conditions voluntarily submitted by the Applicant on pages 19 to 21 of his application shall apply.

In addition the Panel decide to impose the following conditions:

1. The Premises Licence Holder is to display signs both inside and outside the premises that discourage persons congregating immediately outside the premises.
Reason – the prevention of public nuisance. The Panel wished to prevent the assemblages of customers outside the premises in a residential area.
2. The Premises Licence Holder is to ensure no seating, of any description, is placed outside the premises. This will help to discourage people congregating in the area.

Reason – the prevention of public nuisance. For the same reasons as above.

The Panel received legal advice in terms of:

1. The legal test to be applied
2. The four Licensing Objectives
3. The options available to the Panel
4. Section 182 Guidance.

The Decision Notice will be sent out in writing. If any Party, Applicant or Objector who has made a representation, is aggrieved with the Panel's decision, they have the Right to Appeal to the Magistrates Court. That must be done within 21 days of the date given on the Decision Notice.

Chairman