



LICENSING SUB-COMMITTEE

MEETING : Tuesday, 24th January 2017

PRESENT : Cllrs. Gravells, Williams and Brazil

Officers

Vikki Fennell, Solicitor from One Legal
Darren Mountford, City Improvement Officer
Rebecca Tuck, Environmental Health Practitioner
Tony Wisdom, Democratic Services Officer

Also in Attendance

Michael Griffiths, Counsel for Gloucestershire Constabulary
David McFarlane, Gloucestershire Constabulary
Jaine Simner, Licensing Manager - Gloucestershire Constabulary

APOLOGIES : None

1. ELECTION OF CHAIR

Councillor Williams was elected Chair of the meeting.

2. INTRODUCTIONS AND PROCEDURES

The Chair, Members of the Sub-Committee, Officers and others present introduced themselves and the Chair explained the procedure to be followed for the meeting.

3. DECLARATIONS OF INTEREST

Councillor Williams declared a personal interest by virtue of being the Gloucestershire County Council lead Cabinet Member for funding P3, an organisation that had made a representation regarding the application.

4. APPLICATION UNDER SECTION 34 OF THE LICENSING ACT 2003 IN RESPECT OF SEDOOS STOP, 25, LONDON ROAD, GLOUCESTER

Licensing Officer's report

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The Licensing and Enforcement Officer presented the report which detailed an application by Mr Ramachandran Krishnashankar under section 34 of the Licensing Act 2003 to vary an existing premises licence at Sedoo's Stop, 25, London Road.

She reported that an application had been received on 14 November 2016 and during the consultation period it became apparent that the applicant had not sent copies of the application to all the relevant responsible authorities and the public notice on the premises was not displayed as prescribed. As a consequence the consultation period was restarted on 30 November 2016 and continued until 27 December 2016.

She advised that during the consultation period Sedoo's Stop had failed a test purchase for alcohol carried out by the police on 10 December 2016. The member of staff concerned was issued with a Fixed Penalty Notice and the Premises Licence Holder was issued with a warning letter, attached at Appendix 2 to the report.

She noted that the applicant had applied to vary the hours for the sale of alcohol from 06.00 – 23.00hrs every day to 24 hours every day.

Sixteen individual representations had been received together with a petition containing 13 signatures opposed to the application. A further representation had been received which was neutral. The representations were attached as Appendix 5 to the report.

A representation had been received from Gloucestershire Constabulary which was attached as Appendix 6 to the report.

There were no questions of the Officer.

Gloucestershire Constabulary

The Constabulary was represented by Michael Griffiths (Counsel) David McFarlane and Jaine Simner (Licensing Manager).

Mr Griffiths circulated additional material with the consent of the applicant's representative.

He noted that the application form (Appendix 1 to the report) listed additional measures which the Applicant proposed to take to promote all four Licensing Objectives as a result of the proposed variation. He advised Members that these were identical to the mandatory conditions listed in the Applicant's existing licence (Appendix 3 to the report) issued in 2013.

He referred Members to the report of Charlotte Parry in respect of the test purchase and noted there had been no challenge, no proof of age and there was no refusals book available. A warning letter had been issued.

He referred to the formal representation made by the Police as a Responsible Authority and noted that anti-social behaviour and alcohol-related incidents were

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already high in the vicinity where there were a number of other premises selling alcohol.

He referred to the report of conversations held with a number of key workers at Newton House which offered a safe supported environment for homeless people with complex or chaotic support or care needs. He noted that Newton House, along with other similar establishments had a significant number of clients with addictions to drink or drugs.

He also referred to the representation made by Mr Kinghorn of Gloucester City Mission (Appendix 5 to the report) that the ability to purchase high strength lager for 24 hours each day would lead to an increase in complaints of anti-social behaviour and an increase in physical health problems for individuals and specific groups as well as attracting a cohort of street drinkers to an area that already experiences problems of that nature.

Mr McFarlane reported that during 2016 there had been 784 incidents in London Road of which 96 were alcohol related and 34 alcohol related incidents had occurred between 11.00pm and 07.00 am. There were three recorded incidents that related to Seedo's.

He stated that crime had risen by 12 per cent from 2015 with assaults increasing by 40 per cent.

Mr Griffiths made reference to an extract from Innkeeperweb where PC Mansfield reported a conversation with the applicant who had stated that he could see no issue as the garage had a 24 hour licence so why couldn't he?

The applicant had also stated that he did not have a refusals book.

Mr Griffiths noted that the London Road Garage, which held a 24 hour licence, had a voluntary agreement with the Police not to sell high strength beer and cider. The Garage Manager did not support this application as he believed it would encourage undesirable street drinkers to return to the area.

In conclusion, Mr Griffiths stated that the premises already sold alcohol for long hours and the sale of alcohol was a privilege. He believed that the failure of the test purchase and the sale of alcohol to a 16 year old after the application had been submitted was a relevant matter. He noted that the Applicant had breached the conditions of his licence and it would be inconsistent to grant extended hours where premises were not run as they should be. He stated that it was a sensitive area to those that seek alcohol and the application should not be granted.

Councillor Gravells was advised that the test purchase, which was the first and only such visit to the premises, was part of an exercise across the County in the run up to Christmas. It was confirmed all the other licensed premises in London Road had been visited.

Councillor Gravells asked how the increase in crime in Kingsholm compared to the rest of the City. He was advised that it was extremely high and only comparable to Eastgate Street.

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The Chair was advised that Sedoo's was the only premises to fail the test purchase visit.

Mr Schama (representing the Applicant) asked if there was a link between the reported incidents and Seedo's. Mr McFarlane stated that the statistics showed that there was an existing problem which would be exacerbated by the grant of this application.

Mr Schama asked specifically about the link to Sedoo's premises and was advised that the incidents had been identified by searching the name of the premises on a computer and the incidents could have been outside or in the vicinity of the premises.

Mr Schama stated that the three incidents quoted were also close to the garage which was 100 metres away.

Mr Griffiths stated that the incidents were those where the person reporting the incident had given Sedoo's as the address.

The Solicitor stated that the Sub-Committee understood the point which had been made.

Mr Schama was advised that there was no early morning restriction order in place and no application had been made for a Public Space Protection Order.

He was also advised that if Sedoo's had habitually sold alcohol to under-age purchasers the Police would have responded.

The Applicant's Case

The Applicant was represented by Mr Lee Schama.

Mr Schama stated that the application was to vary an existing licence and the test purchase failure was not in dispute.

He noted that the Applicant, his wife and a reliable gentleman, 48 years of age, worked in the store.

The staff member who had failed the test purchase was 24 years of age and had been dismissed after the incident. The Applicant had trained his staff, posters were visibly displayed and he had taken swift action after the test purchase and had underlined to his staff the Challenge 25 Policy.

Mr Schama had noted references in the representations to street drinking to be intimidating and he suggested that it could be more intimidating to walk down a street at night where everything was closed. In his opinion, there would be little help from staff behind a security hatch.

He suggested that an open shop would provide somewhere one could take refuge and would make people feel safer if they felt intimidated.

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He advised that the Applicant himself had been a victim of crime in London Road when a concrete block had been thrown at his car. There had also been a break-in when his shop was closed and damage to a storage area. The Applicant felt that this was less likely to have happened if the shop had been open or he may have seen something and been able to call the Police.

Mr Schama noted that most sales in the early morning consisted of newspapers, bread and milk and that the busy time for alcohol was 4.00 pm until closing on weekdays and noon until closing at the weekends. He suggested that any extension would not necessarily cause a constant stream of purchasers.

He asked the sub-Committee to consider the extent to which the application would make a difference as alcohol was available 24 hours per day just 100 metres away.

He stated that a refusals book had been available on the premises.

He stated that although he did not wish to belittle the representations, they only represented a small proportion of the City's 125,000 residents.

In conclusion he quoted a recent editorial in the Citizen newspaper which called for the Council to support corner shops.

Councillor Gravells stated that the Council did wish corner shops to prosper but he asked at what cost? He asked if the viability of the business depended on extending the hours for the sale of alcohol and was advised that was not the case.

Mr Schama stated that he had not wished to offend or show disrespect to those who had made representations. He stated that this was a complex application in an area with many premises for vulnerable residents and he conceded that the application would present additional opportunities for temptation.

Councillor Gravells asked Mr Schama if he agreed that the representations, particularly those concerning vulnerable residents, should be taken into account. Mr Schama stated that it was the duty of the Sub-Committee to take them into account.

Jonathan Hoad

Mr Hoad, a resident of Kingsholm, addressed the Sub-Committee in support of his previous written representation. He presented copies of a petition from 82 Gloucester residents 21 of whom had added written comments.

He noted that Kingsholm was a mixed area of private and rented housing and a large number of people passed through the area on their way to the City Centre, to school, to the hospital and to the station.

Including Seedo's, there were three retail alcohol outlets, two pubs and several fast food establishments in a small area. He expressed concern that London Road was in danger of becoming an entertainment hub like Eastgate Street.

He noted that all-day drinkers tended to congregate outside Seedo's and he had witnessed swearing, abuse, begging and aggressive arguments. He believed that a

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24 hour licence would make Sedoo's a destination of choice and would increase the likelihood of anti-social behaviour.

He stated that local residents were used to the empty cans and bottles and vomit decorating the street and the grant of a further 24 hour licence would be unlikely to reduce such occurrences.

He noted that Newton House, which was opposite Sedoo's, was one of a number of facilities provided housing for adults with complex or chaotic support or care needs in the vicinity. Another easy access outlet would pose problems for their clients and staff.

As a governor of Kingsholm School, Mr Hoad was aware of a high number of vulnerable families in the area, some with substance and alcohol abuse issues. He believed that faced sufficient challenges without an additional source of supply of cheap high strength alcohol on their doorsteps.

He believed that there was a considerable risk that a small retail offering would not have the capacity to provide a 24 hour quality service that would comply with licensing conditions and regulations on the sale of alcohol. He would be concerned for the safety of staff as they were not protected from aggressive and abusive customers.

He noted that the garage, which already had a 24 hour alcohol licence, provided a secure and well-lit facility and he saw no need to extend this service to a less secure, poorly managed outlet with a dubious record.

In conclusion, he stated that Kingsholm was an overlooked but improving area with great potential and he asked the Sub-Committee, on behalf of all Kingsholm residents, not to jeopardise this by granting this application.

Summing Up by the Police

Mr Griffiths stated that it was a family run business with no issues historically. He stated that the premises had failed the test purchase on three counts and had not been able to produce a refusals book which was the Applicant's responsibility.

He believed that the Applicant should have more liaisons with the Constabulary especially regarding the sensitive properties in the area.

Summing Up by the Licensing Officer

The Licensing and Enforcement Officer outlined the options available to the Sub-Committee which were detailed at paragraph 2.1 of her report.

Summing Up on Behalf of the Applicant

Mr Schama had nothing further to add.

The Decision of the Sub-Committee

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The Chair, Members of the Sub-Committee withdrew to consider their decision. Upon their return the Chair read the following:-

The Committee has considered the application made under Section 34 of the Licensing Act 2003 for a variation to a premises licence by Mr Ramachandran Krishnashankar in respect of Sedoos Stop and having had regard to the representations made by the interested parties, evidence from the applicant, the Home Secretary's guidance, the Council's own statement of licensing policy, and the legal implications as set out in the report, have decided to **refuse the application** for the following reasons:-

- 1) The Sub-Committee is not convinced that the application will promote the four Licensing Objectives.
- 2) The Sub-Committee is concerned, given the location of the premises, being close to sensitive groups of people including those with alcohol and drug issues and in a highly residential area, that an additional 24 hour alcohol licence would be detrimental to their on-going care.
- 3) The Sub-Committee cannot be satisfied, on the balance of probabilities, that granting an additional 24 hour alcohol licence would not increase anti-social behaviour.
- 4) The Sub-Committee has considered the fact that there is a premises on London Road with a 24 hour alcohol licence but on the basis that they have signed a voluntary agreement with the police not to sell high strength beer and cider at night and this is managed via a security hatch that promotes the Licensing Objectives.

The applicant was advised that he had a right to appeal to the Magistrates' Court within 21 days of receipt of this decision.

Time of commencement: 6.15 pm

Time of conclusion: 8.15 pm

Chair