



LICENSING SUB-COMMITTEE

MEETING : Monday, 13th January 2020

PRESENT : Cllrs. Hansdot, Brooker and Walford

Officers

Vikki Fennell, Solicitor from One Legal
Darren Mountford, City Centre Improvement Officer
Chris Butler, City Centre Improvement Officer
Oliver Brown, Democratic and Electoral Services Officer

Also in Attendance

PC Matt Hammond, Gloucestershire Constabulary
Michael Griffiths, Head of Legal Services, Gloucestershire Constabulary
Jessica Weston, Licensing Officer, Gloucestershire Constabulary

Mr Bledar Ferizolli, Licence Holder

1. ELECTION OF CHAIR

Councillor Walford was elected Chair for the meeting.

2. WELCOME AND INTRODUCTIONS

Those present introduced themselves and the Chair outlined the procedure to be followed for the meeting

3. DECLARATIONS OF INTEREST

No declarations were made on this occasion.

4. APPLICATION FOR DETERMINATION

Licensing Officer's Report

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The City Centre Improvement Officer presented a report inviting members to consider an application from Gloucestershire Constabulary to review an existing Premises Licence in respect of Czech and Slovak Store, 171 Barton Street, Gloucester, GL1 4HT.

Solicitors Report

Michael Griffiths, the head of Gloucestershire Constabulary's legal service, presented a report detailing the application made by Gloucestershire Constabulary for a review of the Czech and Slovaks licence.

Mr Griffiths pointed to section 51 of the Licensing Act of 2003 which stated that where a Premises Licence had taken effect, a 'responsible authority' could apply to the relevant Licensing Authority for a review of that licence. Mr Griffiths noted that Gloucestershire Constabulary was the responsible authority applying for the review of the Czech and Slovaks store licence. He added that this was in response to a 'number of events' that had occurred at the property.

Mr Griffiths stated that the licence for the Czech and Slovak store had been granted on the 17th October 2019. He added that Mr Ferizolli was the licence holder for the store and was also the DPS.

Mr Griffiths said that the application to review the licence was as a result of concerns around three of the Licensing Objectives including a concern for Public Safety, the protection of Children from Harm and the Prevention of Crime and Disorder.

Mr Griffiths stated that within a couple of weeks of the licence being granted, serious concerns had been raised, including an allegation that Mr Ferizolli had been responsible for an alleged attack on a member of the public using a dog chain.

Mr Griffiths pointed to a witness statement by an anonymous witness, and one by PC Hobbs outlined in the report detailing the alleged assault on Wednesday 30th October 2019.

Mr Griffiths stated that the Police had attempted to contact Mr Ferizolli numerous times and that it had been difficult to make contact with him. He added that the issue of alleged assault would have to be dealt with at a later date.

Mr Griffiths stated that after the alleged assault on the 30th October 2019, PC Matt Hammond went to the premises on the 4th November 2019 and noticed multiple breaches of the Premises Licence conditions. Details of which are outlined in the report.

Mr Griffiths said that an individual working at the shop, Mr Cretu told PC Matt Hammond that the CCTV had 'never worked'.

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Mr Griffiths stated that the Police had also intended to conduct a test purchase on the 4th November 2019, which had to be delayed as there was an altercation on the premises, where a member of the public got an injured nose.

Mr Griffiths said that the Police subsequently visited the premises on the 5th November 2019 for a test purchase of alcohol (Details outlined in the report).

Mr Griffiths stated that a police cadet aged 16 years old purchased four cans of 7% lager and that the employee conducted no age verification check.

Mr Griffiths said that a shop worker, Mr Cretu, had made the sale and had admitted the offence to the Police subsequently.

Mr Griffiths stated that on the 6th November 2019, there had been a joint Trading Standards visit. Mr Griffiths said that the premises had been selling illegal cigarettes, details of which are outlined in the report.

Mr Griffiths stated that during the visit, Mr Cretu had attempted to lock himself in the rear of the property. He noted that when the Police threatened to use force to get into the back of the premises, the officer managed to get Mr Cretu to come outside. Mr Griffiths added that Mr Cretu was already known to Trading Standards from previous illegal cigarette sales.

Mr Griffiths stated that Josif Cretu, the brother of Mr Cretu had attempted to flee the premises with 77 packs of illegal cigarettes. Mr Griffiths said that the sale of such cigarettes was 'unlawful' and 'illegal' and that they could only have been sourced from the criminal fraternity.

Mr Griffiths stated that in total, 91 packs of cigarettes and six pouches of tobacco were seized and that in total £605.46 of duty had been avoided.

Mr Griffiths stated that Nitrous Oxide canisters and NOS were also found at the property, which was known to be used for 'self-intoxication'.

Mr Griffiths said that the CCTV had been difficult to access and no password provided by the DPS. Mr Griffiths added that Trading Standards managed to find 3 hours of footage and within the 3-hour footage available, 24 of the 35 customers seemed to have purchased illegal cigarettes. Mr Griffiths noted that this meant that 70% of customers had conducted an unlawful purchase at the premises in 3 hours.

Mr Griffiths added that there was evidence that shop workers had purposefully moved cameras to ensure that they did not show transactions at the till. Mr Griffiths stated that the purpose of CCTV conditions was to ensure a proper record of what occurs is documented.

Mr Griffiths stated that the Police and relevant authorities had made numerous attempts to contact Mr Ferizolli, which had proved difficult. Mr Griffiths added that PC Hammond had attended the address which Mr Ferizolli had provided to the Council and that the property owner had informed PC Hammond that Mr Ferizolli had not lived at the property for ten years.

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Mr Griffiths stated that a review of the licence was 'perfectly appropriate' in the circumstances. He noted that there had not been a one-off sale of alcohol to underage persons, which in itself would fit the criteria of a possible review. He added that in a short space of time, allegations and provable criminality had taken place. Lastly, Mr Griffiths stated that the premises had been run in a way which had 'fatally' undermined the Licensing objectives.

PC Hammond stated that he had attended the premises on numerous occasions and had never once seen the DPS. He added that the telephone numbers he had been provided did not work. PC Hammond further added that shop members had been 'evasive' which he believed was due to an investigation for the alleged assault. PC Hammond reiterated his belief that shop workers had been 'obstructive'.

Mr Griffiths pointed to Home Office guidance Section 182 guidance relating to the Licensing Act of 2003, paragraphs 11.24 to 11.28. Mr Griffiths stated that the selling of illegal tobacco alone constituted a condition where the revocation of a licence should be 'seriously considered' in the first instance. Mr Griffiths added that the sale of the illegal cigarettes could have led to a review, let alone the allegations of assault, the numerous issues with CCTV, selling of alcohol to underage persons and the sale of NOS.

Statement by the Licence Holder

Mr Ferizolli clarified that he understood all of Mr Griffiths' report.

Mr Ferizolli stated that he was a businessman, that he owned quite a few businesses and that he had not paid enough attention to this particular store. He stated that many of the points outlined in the Solicitors report were right but that much of it was not. He stated that the alleged assault was not him. He noted that he owned the shop but did not work there. Mr Ferizolli added that he had made a mistake regarding whom he had hired. He stated that he struggled to find good employees to work in the area.

Mr Ferizolli said that he knew not to sell alcohol to under 18s. Mr Ferizolli stated that he had sacked members of staff involved in the selling of alcohol and other illegal activity. Mr Ferizolli noted that the Police had taken CCTV equipment from himself on five occasions. Mr Ferizolli added that he had not 'been an angel'.

Mr Ferizolli said that he had not had CCTV as the Gloucestershire Constabulary had taken it. He added that he did not have 'ideal staff'. Mr Ferizolli stated that he wished to open more off-licences and that he would start working in the store himself.

The Chair stated that a licence for the premises had been made on 13th January 2017. The Chair asked Mr Ferizolli whether he had made that application.

Mr Ferizolli stated that he had not.

The Chair asked Mr Ferizolli, who had surrendered the shop licence in May 2018.

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Mr Ferizolli replied that he was unaware that the shop licence had been surrendered in May 2018

The Chair asked Mr Ferizolli when he had purchased the store.

Mr Ferizolli replied that he had purchased the shop approximately nine months ago and that he believed that he bought the shop in May or June 2019 and believed that the shop had a premises licence.

The Chair asked Mr Ferizolli whether he had made the application for a licence in October 2019.

Mr Ferizolli replied that he was the person who made the application.

The Chair asked Mr Ferizolli why he had provided an address that he had not lived at for ten years.

Mr Ferizolli replied that he had provided the address of his mother's home.

The Chair asked Mr Ferizolli why he had picked his mother's address.

Mr Ferizolli replied that all of his paperwork was sent to that address and has since 2002 used it as a care of address.

The Chair asked Mr Ferizolli where he currently lived.

Mr Ferizolli replied that he currently lived in Quedgeley.

The Chair asked Mr Ferizolli why he picked an address that he had not lived in for ten years.

Mr Ferizolli replied that the property was a foster home.

The Chair stated that when a person applied for a licence, certain conditions needed to be met. The Chair asked why Mr Ferizolli did not have an incident recording book. The Chair added that there was an altercation that had taken place on the premises and that there had been no incident book to record it.

Mr Ferizolli replied that he had left an incident book at the property.

The Chair stated that between May 2019 and now, that there had not been a single refusal of alcohol. The Chair added that the property should have a book to record whenever a shop worker had asked a customer for identification under Challenge 25 rules.

Mr Ferizolli did not respond to the question.

The Chair noted that Mr Ferizolli had told the Committee that he sacked his staff. The Chair asked Mr Ferizolli why he did not have a training logbook.

Mr Ferizolli replied that there was a training logbook.

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The Chair stated that the Police said that the CCTV had not been working nor were there cameras outside the property, which was a legal requirement.

Mr Ferizolli replied that he plans to install CCTV cameras outside, that he had been very busy and had not given his full attention to his business.

The Chair stated that the CCTV had the incorrect time and date. The Chair added that the CCTV was not recording in the required positions. The Chair asked Mr Ferizolli why this had been the case.

Mr Ferizolli replied that it recorded everything.

The Chair replied, stating that this was incorrect.

The Chair stated that on the 30th October 2019, an alleged assault took place and that Mr Ferizolli had claimed that he was not the suspected attacker. The Chair asked Mr Ferizolli whether the alleged assault had been reported to him.

Mr Ferizolli replied that he had not been told by staff about the alleged assault. He added that many instances had not been recorded or relayed to him.

The Chair stated that on the 4th November 2019, a fight broke out inside the shop. The Chair asked Mr Ferizolli if he knew what caused the altercation.

Mr Ferizolli replied that he had been unaware of the assault.

The Chair referred to the test purchase of alcohol, where a staff member had sold alcohol to an underage person.

Mr Ferizolli stated that he had always trained his staff.

The Chair asked Mr Ferizolli whether he could prove that this was the case.

Mr Ferizolli replied that he had a training booklet.

The Chair replied that the evidence outlined suggested otherwise. The Chair asked Mr Ferizolli whether he knew about the selling of illegal tobacco that took place on the 6th of November 2019.

Mr Ferizolli replied that the paperwork for the meeting was the first time he had heard about that instance or the selling of illegal tobacco.

The Chair asked whether Mr Ferizolli was aware of the selling of Nitrous Oxide Canisters.

Mr Ferizolli replied that they were for Cream Charging and they were not illegal.

PC Hammond noted that the Nitrous Oxide Cannisters sole purpose was for self-intoxication. PC Hammond added that Trading Standards have emphasised that point.

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The Chair asked Mr Ferizolli why he had not provided the Council with an up to date address.

Mr Ferizolli replied that the address he had provided was up to date.

The Chair replied that the resident at the property had told officers that Mr Ferizolli had not been to the property in 10 years. The Chair asked Mr Ferizolli whether he had read licence rules.

Mr Ferizolli replied that he had read the Council Licensing Rules.

The Chair asked Mr Ferizolli why he had not complied with the rules.

Mr Ferizolli replied that he had been busy.

The Chair asked Mr Ferizolli why he had not checked the premises.

Mr Ferizolli replied that everything was in order when he last checked the premises. He added that he had bad staff and would subsequently work at the property himself.

The Chair asked Mr Ferizolli why the manager of the store did not have a password to the CCTV.

Mr Ferizolli replied that he implemented all changes that the Police asked for.

The Chair asked who had been downloading recordings of CCTV, which was a legal requirement.

Mr Ferizolli replied that no one had downloaded recordings.

The Chair replied that for any incident, there should be a download.

Mr Ferizolli replied that he was unaware of any incident so he would not have to download a recording.

The Chair noted that 24 out of 35 customers on the 3 hours of footage available had made an illegal purchase. The Chair added that the CCTV was set to the year 2000. The Chair asked Mr Ferizolli if he had been aware of these facts.

Mr Ferizolli replied that he had been unaware.

The Chair asked Mr Ferizolli how many times he had visited the premises since October 2019.

Mr Ferizolli replied, 'not many'.

Lastly, the Chair asked about Mr Ferizolli about his other businesses.

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Mr Ferizolli replied that he owned a nightclub in Barcelona and a valeting company.

Michael Griffiths asked Mr Ferizolli whether he accepted the cigarettes found on the premises were illegal.

Mr Ferizolli replied that he was taking Mr Griffiths word for it that the cigarettes were illegal but was unaware of this.

Summing Up by the Licensing Officer

The City Centre Improvement Officer outlined the options available to the Sub-Committee detailed in Section 7 of his report.

Summing up by Gloucestershire Constabulary

Mr Griffiths stated that the area of Barton Street the shop was located was challenging. Mr Griffiths noted that this meant it was important that those who got an alcohol licence, adhered to the rules. Mr Griffiths stated that there had been a 'wholesale failure' to adhere to the standards. Mr Griffiths said that it was 'frankly ridiculous' that not one person had been refused alcohol. Mr Griffiths added that there had not been a hint of contrition nor apology for any of the alleged offences. Mr Griffiths said that the Committee knew full well what was required of them. Lastly, Mr Griffiths stated that the only proper step would be to revoke the licence, otherwise, the Sub-Committee would have been giving the green light to the sales of alcohol to underage persons.

Summing up by the Licence Holder

Mr Ferizolli stated that he had nothing to add.

The Decision

The Chair, Councillor Brooker and Hansdot, and the Solicitor withdrew to consider their decision. Upon their return, the Chair read the following statement:-

The Sub-Committee having considered the request of a review of the premises licence of the Czech and Slovak Store located at 171 Barton Street, Gloucester GL1 4HT under section 51 of the Licensing Act 2003, after having undertaken a hearing and considered all of the relevant representations has resolved: -

To **revoke** under section 52 of the Licensing Act 2003.

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The sub-committee reasons are as follows:

- 1: Blatant disregard of the licensing conditions attached to the licence.
- 2: Numerous severe breaches of the licensing conditions. Including failed test purchase, disorder on the premises, selling of illegal tobacco (which was not disputed by the DPS), no CCTV on the premises, no refusal logs.
- 3 No remorse or contrition to the sub-committee.
- 4: Admitted to the Sub-Committee that he has only visited the premises on a couple of occasions because he is too busy with his other businesses
- 5: Three of the licensing objectives have been seriously compromised
- 6: No faith that the DPS would abide by the licence conditions going forward given the flagrant breach within weeks of the licence being granted
- 7: Home office guidance states explicitly that the sale of illegal tobacco should result in a revocation. This was just one of the numerous serious breaches of the licence.

All parties are reminded that there is a right of appeal to the local Magistrates' Court within 21 days of formal notification of this decision.

Time of commencement: 6.08 pm hours
Time of conclusion: 7.15 pm hours

Chair