

Appendix 1

DECISION RECORD

Licensing Act 2003 (all section references in this record are references to the Act)

LICENSING AUTHORITY FOR BRISTOL

LICENSING (HEARINGS) SUB COMMITTEE MEETING HELD ON 11 September 2014

AGENDA TITLE

Conduct of a hearing into an application for the GRANT of a licence made by: Anthony Beckford
In respect of: Pricerite Mini Market, 4 The Concourse, Brislington Hill, Bristol BS4 5BG

MEMBERS PRESENT:

1. Councillor Jethwa (Chair)
2. Councillor Payne
3. Councillor Woodman

OFFICERS PRESENT

Naseem Aziz Legal Advisor
Abi Holman Licensing Policy Adviser
Claudette Campbell Committee Clerk

REPRESENTATIONS RECEIVED FROM:

Inspector Martin Rowland 1369
PC Neal Scarborough

Applicants, responsible authorities and interested parties

PARTIES & REPRESENTATIVE (IF ANY) in attendance

Applicant

Not in attendance

Chief Officer of Police (s.13(4)(a))

PC Neal Scarborough

Fire Authority (s.13(4)(b))

Not a party to this hearing

Health and Safety Enforcing Authority (s.13(4)(c))

Not a party to this hearing

Local Planning Authority (s.13 (4) (d))

Not a party to this hearing



Environmental Health (Pollution Control) (s.13 (4) (e))	Not a party to this hearing
Social Services Authority (s.13 (4) (f))	Not a party to this hearing
Any other relevant Licensing Authority (s.13 (4) (g))	Not a party to this hearing
Weights and Measures Authority (s.13. (4) (i))	Not a party to this hearing
Relevant persons who are persons living in the vicinity of the premises (s.13 (3) (a))	Not a party to this hearing
Relevant persons who are a body representing persons living in that vicinity (s.13 (3) (b))	Not a party to this hearing
Relevant persons who are persons involved in a business in that vicinity (s.13 (3) (c))	Not a party to this hearing
Relevant persons who are bodies representing persons involved in such businesses (s.13 (3) (d))	Not a party to this hearing

RECORD OF HEARING:

The authority made a contemporaneous hand written (long hand) record of the hearing. Any party wishing to receive a typed transcript should contact Councillor Support Officer (Democratic Services, City Hall, College Green, Bristol) for information regarding the arrangements for transcribing and any charge levied where the authority produces the same. Set out below is a summary of the reasons for the decision, in the event of an appeal the Licensing Authority reserves the right to elaborate on the reasons.

DECISION MADE:

1. That the application for a licence be rejected.
2. That in accordance with Section 23 of the Act a duly authorised officer be directed to give Notice of determination to:
 - (a) Anthony Beckford
 - (b) The Chief Officer of Police

REASONS FOR DECISION

The following paragraphs summarise the sub-committee's reasons for granting the application and for modifying the conditions on the Licence.

The sub-committee carefully considered the representations together with the information provided for the Hearing and that received during it. The sub-committee had regard to the Secretary of State's guidance to Licensing Authorities and the Authorities own statement of licensing policy.

The committee's decision was particularly influenced by the consideration of the promotion of the licensing objectives concerning the prevention of crime and disorder, the prevention of public nuisance, public safety and the protection of children from harm.

The Committee first noted that the applicant was not in attendance but was content for the hearing to take place in his absence. The Licensing Officer reported that the application had been adjourned on the 5th June due to a forthcoming Magistrate Court case. The applicant had been charged with:

- Sale of alcohol to person under 18
- Selling alcohol to a child on two or more different occasions
- Carry on licensable activity on/from premises other than in accordance with an authorisation

It had been accepted that anything said in the hearing could be detrimental to his court case so the Committee decided to adjourn the hearing to avoid prejudicing the criminal case.

The Committee resolved to hear the application in the Applicants absence.

The licensing officer outlined the application. The licensing officer confirmed that the premises were not located in the CIA. The licensing officer referred the members to additional paperwork which was submitted in the form of a statement from the applicant and a further statement from the police following the criminal prosecution for selling alcohol without a licence.

The Police representative summarised their concerns relating to the operation of this convenience store. The store had a flat at the rear of the building above the shop. Police concerns were initially raised on 21 Feb 2014 when a 14 year old girl was involved in an incident relating to being so intoxicated following purchase of alcohol from the shop, that she had to be taken to hospital by her mother.

On 22 Feb 2014 the police continued to receive further complaints about sale of alcohol from the premises. The Police continued to receive reports of the sale of alcohol and tobacco and on the 22nd Feb 2014 PC Neil Scarborough observed two young people entering the shop and then moving out of view to the back of the shop before returning to pay for purchases. PC Neil Scarborough stopped the two young people after they left the shop with their purchases and found cans of Thatcher's Cider in a bag. PC Neil Scarborough accompanied the young people who were aged 15 years back to the shop to discuss the sale with the applicant.

The applicant was found to have approx. £1000 worth of alcohol in his stock room and confirmed he did not have a premises licence. Therefore he was reported for selling alcohol to a 15 year old and selling alcohol without a premises licence. The stock of alcohol was seized.

The incident on 21 Feb 2014 with the young female was not taken further because the victim's parent did not want to put the young person through stress.

On the 1st March there was a serious incident when an intoxicated young person was involved in a road traffic incident outside the premises in the evening. As a result of this incident Facebook pictures were discovered of young people drinking alcohol in the

applicant's flat. This was coupled with further complaints from parents about young people purchasing alcohol from this shop.

On the 2nd March following the incident Police attended the premises and found that the applicant had re-stocked his shop following the earlier seizure. There were receipts for purchases from Bestway Cash and Carry. At the time the applicant denied selling alcohol to anyone and/or young people.

Intelligence received by Police revealed that the applicant continued to sell alcohol in contravention of his bail conditions which was not to continue to sell any alcohol from his premises. The applicant was arrested.

The Policing of the Applicant's activities took many officer hours as the best deterrent to prevent young people buying alcohol was to station an Officer outside the shop.

Magistrate heard the case on the 2nd September 2014 and the applicant was convicted of the charges listed above and received the following;

1. Community order for 12 months and 120 hours of unpaid work to be completed.
2. Costs £620
3. Deprivation of all alcohol seized

The grounds on which the applicant might appeal the charge were unclear because he had admitted selling alcohol to boys but denied selling same to girls. The applicant contradicted his own statements and the Police were unsure if leave would be granted to allow an appeal.

Parents from the local Comprehensive school were concerned about what the applicant sold to young people. There was potentially more work to do with Trading Standards on this issue.


PC Neil Scarborough confirmed that police intelligence indicated that the applicant was still selling alcohol.

The licensing officer confirmed that the applicant had initially applied for a licence on 12 Dec 2013 which was rejected as the application had not been made properly. The licensing officer also confirmed that the applicant was made aware that he was not authorised to sell alcohol until the application had been granted by the committee.

In summing up the representative from the police stated that the applicant had scant regard to the licensing objectives and notwithstanding being prosecuted intelligence suggests that he continues to sell alcohol. The applicant has undermined a lot of work that has been done in the community.

The members considered the representations received from the applicant. Within the representations from the applicant the members noted that he is a victim of a miscarriage of justice. The applicant considers that PC Scarborough is persecuting him. There are other channels available for the applicant to raise his concerns over the conduct of PC Scarborough and the police generally.

Notwithstanding the concerns raised by the applicant over his treatment by the police within the representations received the applicant acknowledges that he continued to sell alcohol pending his licence application because he did not know that he was not allowed to do this until his licence application had been determined. However members heard from



the licensing officer that the applicant had been made aware that he was not authorised to sell alcohol until his licence application had been determined.

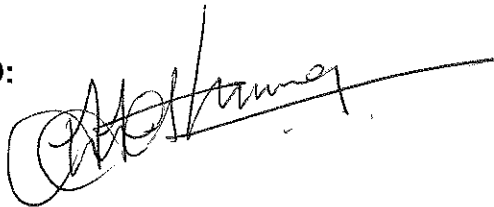
Members also noted that the applicant denied the instance referred to by PC Scarborough.

However, the evidence against the applicant was overwhelming and members could not go behind the recent conviction of the applicant. Members were concerned that the applicant showed a blatant disregard to licensing laws and the licensing objectives in particular crime and disorder, public nuisance and protection of children from harm. Of concern to members was that police had indicated that post-conviction they were still receiving intelligence that the applicant was selling alcohol.

They found he had failed to provide sufficient steps in the application form to promote the licensing objectives and whilst this, on its own, would not merit refusal combined with the significant weight given to the police representation and the applicant's conviction there was overwhelming evidence to reject.

The Committee, having carefully deliberated agreed to reject the Application in its entirety.

SIGNED:

A handwritten signature in black ink, appearing to read 'A. Jethwa', written over a horizontal line.

CHAIR
Councillor Jethwa