

Licensing (Hearings) Sub-Committee

Supplementary Information



Date: Thursday, 7 March 2024

Time: 10.00 am

Venue: City Hall College Green, BS1 5TR

Distribution:

Councillors: Christine Townsend, Katy Grant and Brenda Massey

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Date: Wednesday, 28 February 2024

Supplementary Document

6. Application for grant of a premises license in respect of St Pauls Supermarket Review

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Licensing Sub - Committee
7 March 2024
Decision Record

Members:- Councillor Christine Townsend (Chair), Councillor Brenda Massey, Councillor Katy Grant

Officers:- Carl Knights (Licensing Policy Officer), Lynne Harvey (Specialist Lawyer), Hannah Pring (Senior Legal Officer), Sam Wilcock (Democratic Services Officer)

Licensing Hearing.

Application for the review of a premises licence in respect of St Pauls Supermarket, 128 Grosvenor Road, Bristol, BS2 8YA

To hold a hearing to consider an application for review of the premises licence in respect of St Pauls Supermarket, 128 Grosvenor Road, Bristol, BS2 8YA submitted by Avon & Somerset Constabulary

No relevant representations were received.

The Committee considered the Application after hearing the representations from made from the applicant and premises licence holder and decided:

Decision:

Having had regard to the application, and all relevant representations, the committee were satisfied that the ground for the review had been made out and that it was appropriate for the promotion of the licensing objectives to revoke the licence in accordance with Section 52(4)(e) of the Licensing Act 2003.

Reason:

The purpose of this hearing was to determine an application made by Avon and Somerset Police for a review of a Premises Licence at St Pauls Supermarket.

The main grounds of the application were that the licensing objectives of the prevention of crime and disorder, public safety and the prevention of public nuisance were being undermined.

The premises is a convenience store on Grosvenor Road in St Pauls operating from 7am to 11pm daily. The Premises Licence Holder (PLH) and Designated Premises Supervisor (DPS) is Mr Mohammed Waseem.

Mr Mohammed Waseem attended the hearing alongside Mr Mohammed Noor, the owner of the premises and Mr Mukhdoom Majid as representation.

A grant application was submitted for in July 2014 and during the consultation period, Avon and Somerset Police submitted a representation for additional conditions to be applied to promote the licensing objectives. These additional conditions included CCTV provision, an incident book and restriction on the sale of lager/beer or cider over 6% ABV due to alcohol related issues in the vicinity with street drinking.

The Committee heard from Avon and Somerset Police how the premises had been visited on numerous occasions since June 2017 documenting various licence breaches. It was noted that on each of these occasions, warnings and advice were provided to the premises, namely around CCTV operation and alcohol for sale with over a 6% ABV. It was noted that some follow up visits were completed no more than a week later with the previous breaches such as alcohol above a 6% ABV back on display.

On 9th December 2023, Avon and Somerset Police attended the premises and a licence compliance check was undertaken in the presence of Mr Noor. Mr Waseem did not attend the premises during the inspection. Licencing breaches were documented including lack of till prompt, alcohol on sale over 6% ABV, no staff training records, no incident book and the CCTV timing was out by over an hour. Avon and Somerset Police also seized 12 large industrial Nitrous Oxide Cannisters which were found at the premises. The Misuse of Drugs Act 1971 made the possession of Nitrous Oxide where it is or is likely to be wrongfully inhaled illegal by classifying it as a Class C drug in November 2023.

During the visit on 9th December 2023, PC Montague noted that there were numerous bottles of wine on the shelf with the words 'OneStop' handwritten in

marker pen across the front of the label. The Committee heard representations that another local supermarket 'OneStop' had been subjected to repeated large-scale theft of wine in the previous months and subsequently had taken to marking their products in such way to make items less attractive to thieves. Mr Noor initially stated that these were marked this way for stock taking purposes. He later admitted during a Police interview that these bottles were offered to a member of staff and he approved the purchase of the wine at £4.50 a bottle. Mr Noor admitted that he did not ask as to where the wine was sourced or who was selling the products but saw it as a 'good profit coming up to Christmas'. He was issued a Conditional Caution.

Mr Waseem was not able to provide a satisfactory explanation as to why despite several visits to the property since 2017, he continued to sell alcohol over 6% ABV. Initially Mr Waseem stated that he was not aware of this condition and that he had been subsequently verbally advised by the Police that it was 'ok' to continue. Mr Waseem stated that while he has removed the products over 6% ABV from the shop floor, new members of staff continued to place these on the shop floor despite acknowledging that he was responsible as the PLH and DPS for ensuring staff training. Mr Noor maintained that he was not aware that they could not sell above 6% ABV up to the visit in December 2023 noting that 80% of customers wanted to purchase the higher ABV alcohol which is why they continued to offer it. Reference was made to the fact neighbouring stores were also selling products above a 6% ABV.

Mr Waseem noted that the Nitrous Oxide Cannisters were not on sale within the premises with his representative noting that there was no evidence that these belonged to Mr Waseem but stored to the rear of the property to be disposed of. His representative brought to the Committee attention that drugs were a large concern within the area stating that Avon and Somerset were not aware of the full extent of the problem. An allegation was made that individuals enter the shop selling stolen goods and threaten the staff and to damage the premises should they not make a purchase forcing them into the transaction. It was noted that where they do make money from the sale of stolen goods it is not a significant profit. Mr Waseem confirmed that these threats had not been reported to Avon and Somerset Police.

Mr Noor confirmed that he was not threatened on the occasion that he purchased stolen goods and received a conditional caution. He confirmed that he has purchased from suppliers in store on numerous occasions however is not aware at the time of these purchases whether they are stolen goods or where these products are sourced.

Mr Waseem confirmed that he does hold refusal logs and training records however he keeps the copies and therefore he believes this had caused confusion as to their location on the day of inspection. He asserted that the

CCTV is working and is updated every 31 days as required.

Conclusion

The Statutory Guidance states that the steps a Licensing Authority takes on a review must be proportionate and necessary. If the Licensing Authority is looking to take regulatory action at the more serious end of the scale, the more compelling the evidence must be.

One form of disposal might be to modify the conditions of the licence, but the Committee considered that this would serve no useful purpose due to the flagrant breaches of the law and previous breaches of licence conditions identified at the Premises. This has been noted on thirteen occasions in the previous years with Members being satisfied that there was little to no engagement with the Police to meet standards.

Another option might be to remove the DPS, but this was not considered to be appropriate for the promotion of the licensing objectives as based on the evidence and representations provided, the current DPS appears on paper but is not playing an active role in the day to day management of the premises. As a result, this is not considered to be an effective remedy.

The Committee attached considerable weight to the evidence submitted by Avon and Somerset Police in support of the review application, who presented a compelling case that this store had been a source of illegal activity over a period of time and ongoing licence condition breaches despite clear warnings and guidance being issued.

The Statutory Guidance states that “where reviews arise and the licensing authority determine that the crime prevention objective is being undermined through the premises being used to further crimes, it is expected that revocation of the licence – even in the first instance – should be seriously considered”.

The Committee Members were unimpressed with the explanations advanced by Mr Waseem since the DPS is the person expected to have day to day control over the management of the Premises. There was a distinct lack of any management, staff training and understanding of the Premises Licence conditions and his obligations in accordance with this. They were also unimpressed that Mr Noor and staff had been purchasing alcohol from unknown sources entering the property, failing to ensure the safety of the product purchased for customers or enquiring as to its origin to prevent engagement in the purchase of stolen goods, impacting other business and increasing crime within the local community despite their acknowledgment of the high crime rate within the area.

The Statutory Guidance states “it is important to recognise that certain criminal activity or associated problems may be taking place or have taken place despite the best efforts of the licence holder and the staff working at the premises and despite full compliance with the conditions attached to the licence. In such circumstances, the licensing authority is still empowered to take any appropriate steps to remedy the problems. The licensing authority’s duty is to take steps with a view to the promotion of the licensing objectives and the prevention of illegal working in the interests of the wider community and not those of the individual licence holder.” The Committee did not consider that the criminal activity at the premises had occurred “despite the best efforts of the PLH and DPS” because it was plain from the Police evidence that they were complicit in the criminal act of purchasing stolen goods in addition to numerous breached of licence conditions.

The Committee had no faith in the current management, or rather lack thereof, and the failure to heed to previous warnings. It was also plain that the problems had not been resolved nor was there intention to work with Avon and Somerset Police to ensure conditions were upheld. Members considered that the current operation of the premises with a licence is a danger to the community with the breaches being financially motivated rather than looking after those in the local community. These breaches are also having a negative impact on the wider community and local business particularly the handling of stolen goods with a lack of remorse shown. It was therefore considered that revocation of the licence was an appropriate and proportionate response for the promotion of the licensing objectives. This course of action would not prevent the premises from trading altogether which could continue to provide a service to the community as a general convenience store.

CHAIR