

NORTH LINCOLNSHIRE COUNCIL

LICENSING COMMITTEE

LICENSING (ACTIVITIES) SUB-COMMITTEE

27 August 2020

PRESENT: - Councillors Clark, Swift and Wells.

The sub-committee met at Church Square House, Scunthorpe.

1708 **CHAIRMAN - Resolved** - That Councillor Clark be and he is hereby appointed chairman for the meeting.

Councillor Clark thereupon took the chair.

1709 **DECLARATIONS OF DISCLOSABLE PECUNIARY INTERESTS, PERSONAL OR PERSONAL AND PREJUDICIAL INTERESTS AND SIGNIFICANT CONTACT WITH APPLICANTS, OBJECTORS OR THIRD PARTIES (LOBBYING)** – There were no declarations of Disclosable Pecuniary Interests, Personal or Personal and Prejudicial interest.

No lobbying was declared.

LICENSING ACT 2003 - APPLICATION FOR A REVIEW OF TWO PREMISES LICENCES – NASZA BIEDRONKA, 88-90 FRODINGHAM ROAD, SCUNTHORPE AND BROADWAY LOCAL, 7 BOTTESFORD ROAD, SCUNTHORPE – The Director: Operations submitted two reports advising members of two applications for reviews of Premises Licences. The premises concerned were Nasza Biedronka, 88-90 Frodingham Road, Scunthorpe and Broadway Local, 7 Bottesford Road, Scunthorpe.

Details of the applications were outlined in the reports, together with the applications for the review of the premises licences. Nasza Biedronka had a further two representations which were deemed relevant; one from a Responsible Authority and one representation from Interested Parties. Broadway Local contained a further representation from a Responsible Authority.

There was an application from the applicant for the review to combine the presentation for both premises so as to avoid duplicating the evidence presented. This was unanimously agreed by the sub-committee, following the agreement of all parties present at the hearing.

The Director in his report reminded the sub-committee that the options available to it under the Licensing Act 2003 when considering such applications were:

- To modify the conditions of the licence
- To exclude a licensable activity from the scope of the licence
- To remove the Designated Premises Supervisor

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- To suspend the licence for a period not exceeding three months
- To revoke the licence
- To take no further action

Humberside Police and their representatives, the licence holder, a representative from Trading Standards and an Interested Party addressed the sub-committee and responded to questions.

Following the summary of the case, the meeting was adjourned for deliberation by members.

1710 **Resolved** – The Licensing (Activities) Sub-Committee carefully listened to the verbal representation from the applicant for the review (Humberside Police) with regard to Nasza Biedronka, 88-90 Frodingham Road, Scunthorpe, supported by the council's Trading Standards service and the interested parties. The sub-committee also listened to the mitigation put forward by the Licence Holder. The sub-committee also read the substantial documentation contained within the agenda bundle, which included a number of witness statements, photographs and representations as to illegal activity taking place at the premises.

The Members of the sub-committee were informed that the application for the review was submitted on the 19th February 2020. However, the determination date was extended by a further six months under regulation 11 of the licensing Act 2003 (Hearings) Regulations 2005 to allow the democratic process to react to the covid-19 pandemic.

The submission made by applicant for the review emphasised that the licence holder had no regard for promoting the licensing objectives, in particular -

- 1) the Prevention of Crime and Disorder as:
 - a) the Licence holder was convicted on the 2nd August 2019 of 12 offences relating to the sale of illicit tobacco products that were not correctly packaged or that held the correct UK health warning. Four of those offences were in connection with these premises and the 8 other offences were in relation to two other premises within North Lincolnshire; and
 - b) Her Majesty's Revenue and Customs (HMRC), on the 19th November 2019, visited the premises and, after an inspection, seized alcohol, from the premises that did not hold the UK customs duty stamp; and
 - c) Humberside Police visited the premises on the 31st January 2020 and recorded that there had been a breach of the licensing conditions as the premises did not have any challenge 25 signs within or around the premises and that no refusal of sale book was available for inspection. Staff members at the premises did not know what a refusal of sale book was or whether CCTV footage was retained for 31 days.

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- 2) The Protection of Children From Harm as the licence holder willingly sold illicit tobacco products at a price which was cheaper than comparable branded products which could easily be targeted at children and young people under the legal age and those that are vulnerable.
- 3) The protection of public safety as the licence holder willingly sold illicit tobacco products and non-UK duty stamped alcohol of which the contents is unknown and did not contain the correct health warnings.

The applicant for the review made strong recommendations that the licence be revoked as there was a clear disregard by the licence holder of the licensing objectives and the requirement to adhere to the licensing conditions attached to his licence given that after the criminal conviction further breaches were identified by HMRC and Humberside Police.

The sub-committee also listened to the verbal representation made by the Trading Standards representative and the interested parties who supported the application for review from Humberside Police. In particular that:

- a) further complaints had been made since the application for the review was received; and
- b) there is a serious concern that the activities within the premises contributes to the anti-social behaviour within the surrounding areas which is mainly residential.

The sub-committee also acknowledged the remorse shown by the licence holder when interviewed under caution, during the prosecution and at the premises licence review hearing.

However, the sub-committee consider the licensing objectives to be its paramount concern when considering and determining any application. The members gave particular consideration to the submissions made by the applicant for the review and Trading Standards.

Therefore, after considering the information presented at the hearing, and taking into account the statutory guidance referred to at paragraphs 11.24 to 11.28 and paragraph 55(4) and 66(1) of the council's Licensing Policy, the sub-committee has decided to revoke the premises licence. There were serious concerns that the Licence Holder did not understand the seriousness of promoting the licensing objectives and complying with the conditions attached to a premises licence. The sub-committee were not satisfied that the licence holder provided any confidence that he would implement additional measures to ensure staff members would be sufficiently trained on dealing with the sale of alcohol to underage person or what measures would be put in place to ensure that the possession, supply and sale of illicit tobacco will not take place at the premises again.

The supply and sale of illicit tobacco, non-UK duty alcohol and the breaches of mandatory conditions relating to the sale of alcohol was something that the sub-committee considered to be a very serious matter.

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The safety of the public was the Sub-Committee's primary concern, therefore, the sub-committee do not consider that it was appropriate for the premises to retain its licence to sell alcohol as they were not satisfied that the licensing objectives 'The Prevention of Crime and Disorder', 'Protection of Children from Harm' and 'Public Safety' could be adhered to.

- 1711 **Resolved** - The Licensing (Activities) Sub-Committee carefully listened to the verbal representation from the applicant for the review (Humberside Police) with regard to Broadway Local, 7 Bottesford Road, Scunthorpe, supported by the council's Trading Standards service and the interested parties. The sub-committee also listened to the mitigation put forward by the Licence Holder. The sub-committee also read the substantial documentation contained within the agenda bundle, which included a number of witness statements, photographs and representations as to illegal activity taking place at the premises.

The Members of the sub-committee were informed that the application for the review was submitted on the 19th February 2020. However, the determination date was extended by a further six months under regulation 11 of the licensing Act 2003 (Hearings) Regulations 2005 to allow the democratic process to react to the Covid-19 pandemic.

The submission made by applicant for the review emphasised that the licence holder had no regard for promoting the licensing objectives. In particular –

- 1) the Prevention of Crime and Disorder as:
 - a) the Licence holder was convicted on the 2nd August 2019 of 12 offences relating to the sale of illicit tobacco products that were not correctly packaged or that help the correct UK health warning. All 12 of these offences were relating to three other premises within North Lincolnshire; and
 - b) Her Majesty's Revenue and Customs (HMRC), on the 19th November 2019, visited the premises and, following an inspection, seized alcohol, from another premise that is within the control of the Licence Holder that does not hold the UK customs duty stamp; and
 - c) Humberside Police visited another premises within the control of the Licence Holder on the 31st January 2020 and recorded that there had been a breach of the licensing conditions as the premises did not have any challenge 25 signs within or around the premises and that no refusal of sale book was available for inspection.

Staff members at the premises did not know what a refusal of sale book was or whether CCTV footage was retained for 31 days.

- 2) The protection of children from harm as the licence holder willingly sold illicit tobacco products at a price which was cheaper than comparable branded

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products which could easily be targeted at children and young people under the legal age and those that are vulnerable.

- 3) The protection of public safety as the licence holder willingly sold illicit tobacco products and non-UK duty stamped alcohol of which the contents is unknown and did not contain the correct health warnings.

The applicant for the review made strong recommendations that the licence be revoked as even though none of the offences relate to the premises, the Licence Holder has demonstrated a clear disregard of the licensing objectives and the requirement to adhere to the licensing conditions attached to his licence for other premises which could also be replicated at the premises concerned. This was demonstrated by further breaches being identified by HMRC and Humberside Police after their criminal conviction on the 2nd August 2019.

The sub-committee also listened to the verbal representation made by the Trading Standards representative and the interested parties who supported the application for review from Humberside Police. The sub-committee also acknowledged the remorse shown by the licence holder when interviewed under caution, during the prosecution and at the premises licence review hearing.

However, the sub-committee consider the licensing objectives to be its paramount concern when considering and determining any application. The members gave particular consideration to the submissions made by the applicant for the review.

Therefore, after considering the information presented at the hearing, and taking into account the statutory guidance referred to at paragraphs 11.24 to 11.28 and paragraph 55(4) and 66(1) of the council's Licensing Policy, the sub-committee has decided to revoke the premises licence. There were serious concerns that the Licence holder did not understand the seriousness of promoting the licensing objectives and complying with the conditions attached to a premises licence. The sub-committee were not satisfied that the licence holder provided any confidence that he would implement additional measures to ensure staff members would be sufficiently trained on dealing with the sale of alcohol to underage persons or what measures would be put in place to ensure that the possession, supply and sale of illicit tobacco would not take place at the premises.

The supply and sale of illicit tobacco, non-UK duty alcohol and the breaches of mandatory conditions relating to the sale of alcohol was something that the sub-committee considered to be a very serious matter.

The safety of the public was the sub-committee's primary concern, therefore, the sub-committee do not consider that it was appropriate for the premises to retain its licence to sell alcohol as they were not satisfied that the licensing objectives 'the Prevention of Crime and Disorder', 'Protection of Children from Harm' and 'Public Safety' could be adhered to.

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