

Report by the Licensing Officer

Purpose of Report

To consider an Application by Mr Soifur RAHMAN for a new premises licence at Cyber Candy Express, 15, Market Parade, Havant . The application is shown in Appendix A.

Background

The applicant has taken over the shop at 15 Market Parade and has recently opened as a convenience store selling a variety of products. The owner wishes to add the sale of alcohol to the range of products currently on offer.

The premises are situated in the Market Parade shopping area close to other shops in Havant Town centre and backing onto Havant Park near to the Railway Station.

The application was first made on 11th February 2015 but due to the failure of the applicant to display the relevant notices on the premises and also for missing the deadline for the Newspaper advertisement the application was set back to the 19th February with a closing date for representations of the 19th March 2015.

The application was made without naming or adding a Designated Premises Supervisor and the applicant was advised that in order to sell alcohol he would need to appoint someone or obtain his own Personal Alcohol Licence. At the time of writing this report neither course of action has been adopted by the applicant.

The Application

The application is for the sale of Alcohol for consumption Off the premises from 0800 to 2200 hrs Daily.

During the application process it was noted that only very scant details had been added to Operating schedule. Mr Rahman was put in touch with PC Barron the Police Licensing Officer and Mr S. Lawford of Hampshire Trading Standards, and subsequently agreed a number of conditions that could be added to the Operating schedule to address the Four Licensing Objectives. The revised application now includes the following in the conditions:-

Conditions consistent with operating schedule

The Prevention of Crime and Disorder

1. CCTV

The premises shall have sufficient cameras located within the premises to cover all public areas including outside of the premises covering the entrance and exits. The system will be able to cope with all levels of illumination throughout the premises as well as outside areas.

CCTV warning signs are to be displayed in public places.

CCTV system must be in operation at all times whilst the premises are open for licensable activities. All equipment shall have a constant and accurate time and date generation.

The recording system will be able to capture a minimum of 4 frames per second and all recorded footage must be securely retained for a minimum of 28 days.

Records must be made on a weekly basis and kept for inspection to show that the system is functioning correctly and the data is being securely retained.

The Premises Licence Holder will adopt measures to ensure that the CCTV system is not tampered with.

There will be sufficient members of trained staff at the premises during operating hours to be able to provide viewable copies immediately to Police on request when investigating allegations or offences or criminal activity. Any images recovered must be in a viewable format on either, disc, VHS or other easily downloadable format. Footage supplied in a digital format on CD or DVD will also have a copy of the CCTV system software enabled on the disc to allow playback.

Any technical failure of the CCTV system will be reported to Police Licensing Unit as soon as reasonably practicable.

The Protection of Children from Harm

2. REFUSALS BOOK

A written log or electronic equivalent shall be kept of all refusals of the sale of alcohol. The Premises Licence Holder shall ensure that the refusals log is checked, signed and dated on a weekly basis by a member of management. The refusals log or electronic equivalent will be kept and maintained at the premises and will be available for inspection immediately upon request by Hampshire Constabulary and any Responsible Authority.

The record of refusals shall be retained for 12 months.

3. CHALLENGE 25

There will be a Challenge 25 policy operating at the premises. Challenge 25 means that the holder of the Premises Licence shall ensure that every individual who visually appears to be under 25 years of age and is seeking to

purchase or be supplied with alcohol from the premises, shall produce identification proving that individual to be 18 years of age or over.

Acceptable identification for the purposes of age verification will include a driving licence, passport or photographic identification bearing the PASS logo and the person's date of birth or any other form of identification from time to time approved by the Secretary of State.

If the person seeking to purchase alcohol is unable to produce acceptable means of identification then no sale or supply of alcohol will be made to that person.

Challenge 25 posters shall be displayed in prominent positions at the premises.

4. TRAINING

Staff training regarding appropriate precautions to prevent the sale of alcohol to persons under the age of 18, the signs and symptoms of drunk persons and the refusal of sale due to intoxication. Records will be kept of such training which must be signed and dated by the member of staff who has received that training.

All relevant staff will receive refresher training every six months as a minimum and records are to be kept of this refresher training which should be signed and dated by the member of staff who received that training

Relevant Representations

Interested Parties

There have been two relevant representations. One from an interested party and the other from a Responsible Authority (Hampshire Constabulary) .

1. Mr T.Smith Angel Radio, 17 Market Parade Havant.PO9 1PY
Representation that during the building work on the premises the Owners have been disregarding their neighbours convenience and rights and have caused damage and noise nuisance (Licensing Objective the Prevention of Public Nuisance).

They consider that the applicant is incompetent and that he is not fit to run an alcohol licensed premises as evidenced by their failure to comply with the Licensing Act 2003 by displaying and allegedly selling alcohol without the licence being in force (Licensing Objective the prevention of Crime and Disorder).

Furthermore they consider that the premises name and signage are aimed at children and will encourage them onto the premises (Licensing Objective the Protection of Children from Harm)

2.PC 1148 P. Barron, Havant Police Station, Civic Centre Road Havant. PO9 2AN.

Representation that the Applicant has insufficient experience and knowledge of the Licensing Act to properly enforce the Licensing Objectives. As evidenced by the lack of detail in the initial application and subsequent agreement to add suitable conditions into the Operating Schedule, and by the failure to appoint or nominate a suitable person to become the Designated Premises Supervisor.

Furthermore, the premises were open for business and found to be displaying alcohol for sale before the Licence had been granted and Mr Rahman had to be instructed to remove the alcohol from display.

Considerations

i) The Licensing Act 2003 requires all Alcohol Licensed Premises to appoint a Designated Premises Supervisor. The role of the DPS is important for ensuring that the Licensing Objectives are met and licensing conditions complied with. The role is one which requires either considerable experience or perhaps outside support during the early years of operation

ii) With regard to underage drinking and the prevention of children from harm licensing objective, the licensing policy states:

12.35 The Portman Group Code of Practice on the Naming, Packaging and Promotion of Alcoholic Drinks seeks to ensure that alcoholic drinks are packaged and promoted in a socially responsible manner and only to persons 18 years old or older. It plays an important part in protecting children from harm because it addresses the naming, marketing and promotion of alcoholic products sold in licensed premises in a manner which may appeal to or attract minors. The Licensing Authority commends this code.

Although this does not directly relate to the name of the premises, the committee may wish to consider that the same principles apply as to those regarding the naming of alcoholic products.

iii). Display of Alcohol was an invitation to purchase when there was no existing alcohol licence

The Committee is obliged to determine this application with a view to promoting the licensing objectives, which are:

- The prevention of crime and disorder;
- Public safety;
- The prevention of public nuisance;
- The protection of children from harm.

In making its deliberations, the Committee is obliged to have regard to the Council's own Licensing Policy and National Guidance. The Committee must also have regard to the representations that have been made balanced against the conditions offered by the applicant and the evidence that it hears.

The Committee must take one of the following steps, as it considers necessary for the promotion of the licensing objectives:

- a) Grant the application as asked subject to
 - i) the conditions of the licence, being modified to such extent as the Committee considers necessary for the promotion of the licensing objectives and
 - ii) any mandatory conditions which must under sections 19-21 of the Licensing Act 2003 be included in the licence
- b) to exclude from the scope of the licence any of the licensable activities to which the application relates
- c) to refuse to specify a person in the licence as the premises supervisor
- d) to reject the application.

The Committee should note that it cannot modify the conditions or reject the whole or part of the application merely because it considers it desirable to do so. It must actually be appropriate in order to promote the licensing objectives.

Appendices:

This report consists of

- Application for a premises licence (Appendix A)
- Plan of premises (Appendix B)
- Location plan (Appendix C)
- Copies of representations from interested parties (Appendix D)