

NORTH WEST LEICESTERSHIRE DISTRICT COUNCIL

LICENSING SUB-COMMITTEE – 26th AUGUST 2008

Title of report	APPLICATION FOR REVIEW OF A PREMISES LICENCE
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Purpose of report	To determine an application for a review of a premises licence in respect of premises trading as the Kegworth Service Station and located at 70 Derby Road, Kegworth, Derbyshire, DE74 2EN. This report outlines the application and also highlights the licensing objectives, the relevant parts of Government guidance and the pertinent sections of the Licensing Authority's Licensing Policy.
Strategic aims	Strong and Safer Communities
Implications:	
Financial/Staff	Implications arising from an appeal made to the Magistrates Court by anyone aggrieved by the decision of the Sub-Committee.
Link to relevant Corporate Action Team	Safer CAT
Risk Management	The usual risks of cost involved of an appeal against the decision of the Committee. In any event and in order to mitigate these risks, the Committee should give clear reasons for its decisions and any such reasons would need to be substantiated in Court.
Equalities Impact Assessment	Equality Impact Assessment to be undertaken during 2008/9.
Human Rights	See the body of the report.
Transformational Government	N/A

Consultees	Leicestershire Fire and Rescue Service, Trading Standards, Health and Safety, Environmental Protection, Planning and members of the public/local businesses by way of notice at the premises, on the Council's website and at the Council Offices, Coalville.
Background papers	Guidance issued under Section 182 of the Licensing Act 2003 - available for reference at www.culture.gov.uk and Statement of Licensing Policy -available for reference at www.nwleics.gov.uk/licensing
Recommendations	THAT THE SUB-COMMITTEE DETERMINE THE APPLICATION.

1. Background

- 1.1 The premises currently operate as an off licence and are the holders of a premises licence. The premises licence permits the sale of alcohol for consumption off the premises from 8am until 11pm on Monday to Saturday and from 10am until 10.30pm on Sunday. A copy of the premises licence is attached as appendix 1.
- 1.2 On 28th February 2008, a Licensing Sub-Committee hearing was held to determine the review application made by the Leicestershire Constabulary ("LC") relating to the prevention of crime and disorder, public safety and protection of children from harm licensing objectives. The LC requested inter-alia that training could deal with the problems and suggested 2 conditions relating to training. One condition related to a specific training course to be completed by the new DPS. The Licensing Sub-Committee determined to impose these 2 and other conditions and to suspend the premises licence for one month to enable the training to take place. After the determination hearing, the Licensing Authority was then made aware that the DPS training condition had been complied with by the hearing date and the imposition of the conditions and suspension could not be defended. The decision was appealed by the premises licence holder. The appeal was not defended by the Licensing Authority therefore the one month suspension was removed in addition to the condition relating to training.
- 1.3 On 4th July 2008, an application for a review of the premises licence was received from LC. A copy of the application and supporting evidence is attached as appendices 2 to 6. The review application relates to the prevention of crime and disorder, public safety and protection of children from harm licensing objectives and the grounds for review are as stated in the application form:
 - On the 19th May 2007, police conducted a test purchase operation at the premises. Mr Sidhu senior sold alcohol to the under age test purchaser. He was issued an £80 fixed penalty ticket and a warning letter as this was a first offence.

- On the 10th November 2007 police conducted a further test purchase operation and again Mr Sidhu senior sold alcohol to the under age test purchaser. He has been reported with a view to prosecution for this offence.
- On the 7th January 2008 the police applied for a review of the premises licence and the hearing took place on the 28th February 2008.
- In the interim, on the 20th February 2008 Mr Sidhu senior had transferred the premises licence to his son Harpinder Singh Sidhu and his wife. Mr Sidhu junior also became the designated premises supervisor.
- Mr Sidhu senior attended the hearing although his son, who was by then the premises licence holder, did not. The Committee made the determination described in the attached Record of Decision.
- Mr Sidhu junior subsequently appealed the decision.
- On the 14th March 2008 police conducted a test purchase operation at the premises and a sale was refused.
- On the 13th June 2008 a further test purchase operation resulted in a refusal to sell.
- On the 14th June 2008 a member of staff sold a bottle of Bacardi Breezer to a 14 year old test purchaser. He was issued with an £80 fixed penalty ticket and Mr Sidhu junior was interviewed regarding the sale.

1.4 Leicestershire Constabulary recommend the revocation of the premises licence or the addition of conditions to the premises licence.

2.0 Representations

2.1 The Licensing Authority is responsible for advertising the review application by displaying prominently a notice at, on or near the premises to which the application related, on the Council's website and at the main offices of the Licensing Authority for not less than 28 consecutive days. The required notices were displayed at the premises, on the Council's website and in the reception area of the Council Offices, Coalville on 4th July 2008.

2.2 In respect of a review of a premises licence, the applicant is responsible for serving the application on the premises licence holder and each of the responsible authorities, namely, the Fire Authorities, Trading Standards Department and the District Council's Health and Safety, Environmental Protection and Planning Sections. Officers are satisfied that the applicant has served all parties as required.

2.3 No representations have been received from any of the remaining responsible authorities.

2.4 Interested parties in the vicinity of the premises are able to make representations within 28 days of the application to the Licensing Authority. No representations have been received from residents in the vicinity of the premises.

2.5 On 24th July 2008, a letter was received from the premises licence holder, Mr Harpinder Singh Sidhu detailing steps he has taken to promote the four licensing objectives. A copy of this letter is attached as appendix 7.

2.6 Information relating to the Challenge 21 policy and the BII Level One Award in Responsible Alcohol Retailing is attached as appendix 8 and 9 respectively.

3.0 Statutory Guidance

3.1 In making its decision, the Sub-Committee is obliged to have regard to Guidance issued by the Secretary of State under Section 182 of the Licensing Act 2003. All Licensing Committee members have been provided with a full copy of the guidance document. Officers consider that paragraphs 2.1 to 2.31, 2.41 to 2.50 and 11.15 to 11.27 may have a bearing upon the application.

4.0 Statement of Licensing Policy

4.1 The Sub-Committee is also obliged to have regard to its own Statement of Licensing Policy. Officers consider that paragraphs 7.1 to 7.2, 8.1 to 8.2, 10.1 to 10.5, 10.8 to 10.9 and 11.1 to 11.3 may have a bearing upon the application.

5.0 Observations

5.1 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.

5.2 The Committee may take such of the following steps, if any, as it considers necessary for the promotion of the licensing objectives:

- a) Modify the conditions of the licence;
- b) Exclude a licensable activity from the scope of the licence;
- c) Remove the designated premises supervisor;
- d) Suspend the licence for a period not exceeding three months;
- e) Revoke the licence.

5.3 Any determination made by the Sub-Committee shall not come into effect until the end of the period given for appealing against the decision or if the decision is appealed against, until the appeal is disposed of.

5.4 There is a right of appeal to the Magistrates Court against the decision of the Sub-Committee by the applicant, premises licence holder and persons who made relevant representations.

