



Additional documentation had been circulated to all parties prior to the meeting: a form requesting the transfer of the Premises Licence to Mark Raisborough; and a witness statement from PC Evans.

The Council's legal representative set out the procedure that would be followed, as detailed in Appendix A to the Agenda.

The Licensing Team Manager was requested to present the report which set out the background leading to the application for review. Appended to the report were the premises licence; Home Office guidance on the sale of alcohol; and witness statements from the police.

The circumstances leading to the application for review were presented to the Sub-Committee by Sgt Enderby, which, following a licence compliance check had revealed a number of issues of concern. The licence itself was not on display, as was required by law. It was not possible to view any CCTV footage as no-one knew how to work the equipment. The level of training undertaken by staff was ambiguous. A number of bottles of wine were seized as being of questionable origin, due to them being sold at 'two for £5', which was below the HMRC mandatory selling price, leading to the assumption that duty had not been paid, and also some of the labels were branded Casal Divino which was a well-known smuggled brand. On being interviewed on site the Licensee appeared unknowledgeable regarding the requirements and responsibilities of his position.

The police were sceptical regarding the transfer of the licence to Mr Raisborough, and his subsequent statements that he would not be involved in the business financially and that he was merely helping a friend, whilst Mr Mistry was out of the country for an indefinite length of time.

The Licensee's representative, Mr Gibson, on being given the opportunity to ask questions of the police, asked if the provenance of the wine in question had been verified, and whether this did constitute a risk to public safety. It was ascertained that no testing had been carried out at that point. Mr Gibson further questioned the requirements of the availability of CCTV footage as stipulated on the licence, it was agreed that this was vague. There was no requirement on the licence to have an operator on the premises. It was acknowledged by the Licensee and his representative that the requirement to have the premises licence on display had not been complied with, however, given the lack of evidence on the other matters, the lack of the licence display was no reason for a review of the licence. A case could not be made based on assumptions.

The Licensee's representative then presented the case for the Licence Holder, describing Mr Mistry's marriage had broken down some months ago and it had been his wife who had handled all the paperwork. In the absence of anyone undertaking that side of the business Mr Mistry admitted he had let matters get into a mess, and hence the reason for Mr Raisborough agreeing to help sort things out. No deceit had been intended by Mr Mistry. It was agreed with the police that 24 hours would be a reasonable time to produce CCTV footage, and

had this been requested at the time, the provider of the system would have been able to undertake this. It had been stated that no training records were available, however a brief summary had since been produced. Mr Mistry then explained that he had to sell some alcohol cheaply in order to compete with other shops, but he was unable to verify the cost price or the supplier, due to a lack of paperwork. He agreed that he was probably making a loss on the wine.

The documentation provided by Lincolnshire Police for their case had included information regarding legal highs, and Mr Gibson admitted on his client's behalf that these had been sold by Mr Mistry some time ago, but since some had been made illegal and also since warnings regarding their safety, these items had been withdrawn from sale.

On being questioned by the Police and Members of the Sub-Committee, it was agreed by the Licensee and his representative that there had been a lack of responsibility and a degree of naivety but that steps were being taken to address the issues that had been allowed to get into a mess.

In summing up, Mr Gibson agreed that Mr Mistry had been out of his depth since being left to run the business alone and that he had made mistakes, some of which were not serious enough on their own to warrant a review of the licence, and errors had been made regarding the sale of the wine, however there was no concrete evidence to prove criminal intent.

In the Police summing up there was a lack of credence in the claim of naive mistakes by a person who had been in business for so many years, and deliberate criminal activity was a more plausible explanation.

The Sub-Committee then retired to consider their decision. The meeting was therefore adjourned at 10.25am.

The meeting reconvened at 12.49pm.

The Chairman then read out the sub-committee's decision and the reasons for reaching said decision.

“Considering the foregoing above we have concluded that there were breaches of the licensing act and undermining of the licensing objectives of crime and disorder. Public safety being undermined has not been proven. However to avoid any avoidance of doubt in the future, consider it appropriate to amend the licence in the following ways:

1. We will remove Mr Mistry as the DPS as he has shown a lack of understanding of the licensing objectives, of the requirements of his licence and requirements in the pricing of the sale of alcohol;
2. A condition is put in place requiring staff on the premises to be able to operate the CCTV system fully and demonstrate that to be the case if required by the police or the licensing authority;
3. The business shall obtain and retain invoices for purchase of all alcohol, these to be produced on request;

4. The CCTV system should be able to export video and stills to a removable storage medium within a period not exceeding 24 hours from receipt of request by Lincolnshire Police or the Licensing Authority. Following export the images shall be capable of being played on a DVD or PC without any additional software.

The committee reminds the business that it is a requirement in law to display a copy of the licence at all times.”

The Chairman advised that all parties would be notified of the decision in writing within five working days of today’s hearing and reminded those present of the right to appeal to the Magistrates’ Court within 21 days of receiving such notice.

The meeting closed at 12.55 pm.

Chairman