

## **Decision notice**

### **Review of Premises Licence**

#### **Paul's Stop and Shop, 54 Montagu Street**

**Date of hearing – 23<sup>rd</sup> January 2013 at 2pm**

#### **1 The Decision**

1.1 That the Designated Premises Supervisor Nirmala Rani Paul be removed.

1.2 That the following additional conditions be placed on the premises licence;

1.2.1 The Designated Premises Supervisor shall possess a “National Certificate for Designated Premises Supervisors” or equivalent nationally recognised qualification approved by the licensing authority and the police prior to appointment.

1.2.2 A personal licence holder shall be on duty at all times alcohol is for sale during trading hours.

1.2.3 All staff shall be trained in relation to the sale of alcohol to drunks and underage persons and details of this training and training records are to be maintained and produced immediately to the licensing authority or police upon request.

#### **2. Evidence considered**

**2.1** In arriving at the decision the Committee considered statements from Northamptonshire Police provided by PC Joe Studd and PC Paula Foley. PC Foley addressed the Committee briefly.

**2.2** Mr Joginder Paul, a director of the premises licence holder company, made a representation to the committee regarding an allegation of knowingly selling alcohol to a drunken person. It also heard briefly from Mr Kamal Paul on the issue of his past, present and future involvement with not only these premises, but all premises operated by members of his family.

### **3. Facts on which the decision is based**

The Committee were satisfied as to the following facts:

- 3.1** The premises are licensed to sell alcohol twenty four hours a day, seven days a week.
- 3.2** The Police have concerns about the fact that the premises is licensed to sell alcohol twenty four hours a day, seven days a week and the effect this has on the Kettering night time economy. They are also concerned that the operator of the premises is failing to properly promote the licensing objectives. The DPS of this premises, Mrs Nirmala Rani Paul, face trial in March 2013 in relation to a disputed allegation of knowingly selling alcohol to a person who is drunk in relation to Dalkeith Convenience stores.
- 3.3** When questioned by the Police, Mrs Paul was unable to show any knowledge or understanding of the licensing objectives
- 3.4** On Sunday 18<sup>th</sup> November 2012 at around 06:00 hours Mr Joginder Paul, who is not a personal licence holder but it a director of the PLH, was witnessed by PC Foley selling alcohol to a person who appeared to the officer to be drunk, which is an offence under section 141 of the Licensing Act 2003. The Committee heard that Mr Paul disputes this allegation but the matter was not pursued by the police.
- 3.5** Although not required to reach a decision on culpability for alleged offences, the Committee have a duty to determine whether problems associated with alleged crimes are taking place on the premises and affecting the promotion of the licensing objectives. The Committee considered that there is one allegation in relation to these premises, that the offence is disputed by this individual but that no further action has been taken by the police.
- 3.6** The police are also concerned about the conduct on the premises of Kamal Paul, even though he has had no formal involvement with the premises, in relation to an incident involving an allegation of racially aggravated public disorder on 12<sup>th</sup> August 2012.

- 3.7.** The police were also concerned that there is an issue surrounding discarded alcohol containers in Kettering town centre generally.
- 3.8** On Wednesday 14<sup>th</sup> November 2012 two Police officers attended the premises and demanded to see as copy of the refusals register, as required to be produced upon demand by the conditions of the premises licence. The member of staff on duty in the shop at the time, Mrs Neelam Paul, the DPS of Dalkeith Convenience Store, was not able to produce this register. The officers also noted that a copy of the premises licence was not displayed on the premises as required by licensing legislation.
- 3.9** The PLH informed the committee that the register had been misplaced and that the licence had been accidentally removed from the premises. Both are now at the premises and appropriately displayed.
- 3.10** Mr Kamal Paul indicated that other than being a relative of the operators of Pauls Stop and Shop Store, he was not involved with the running or operation of the premises and that he would be leaving the country to work abroad for a period of time.
- 3.11** The Committee noted that throughout the hearing, Mr Kamal Paul, about whom the police have made representations about his suitability to be involved with licensed premises, interacted frequently with the representative for the PLH and frequently handed him documents from a file and handwritten notes, despite him not being a personal licence holder, a DPS or having any involvement with the premises other than being the son of a director of the PLH.

#### **4 Reasons**

- 4.1** In considering whether steps were appropriate in relation to the premises the committee had regard to the Council's licensing policy and guidance under section 182 of the Licensing Act 2003.
- 4.2** The committee was informed by the representative of the PLH that the statutory consultation notice was not displayed outside the premises

during the statutory consultation period. The committee was informed by the Health Services Manager that this notice had been erected outside the premises at the start of the consultation period and that he had not been informed by any person that the notice had been removed. In the absence of any evidence from the PLH to refute the assertion of the Health Services Manager, the committee considered that the statutory notice had been properly displayed outside the premises during the consultation period.

**4.3** It was clear to the committee that the DPS, Nirmala Rani Paul, had insufficient knowledge of licensing law, practice and the licensing objectives, as evidenced by her failure during the hearing to state the four objectives when asked to do so, notwithstanding that her first language was not English. The committee heard that she had no real understanding or knowledge of the same when questioned by the police in August 2012. Accordingly, the committee considered that it was appropriate that the current DPS should be removed.

**4.4** The issues regarding insufficient knowledge of the licensing objectives, the nature of the premises and lack of evidence of proper training given to employees warranted an appropriate condition being placed on the premises licence requiring the new DPS to possess a national certificate for designated premises supervisors and that all staff must receive training in relation to the sale of alcohol to drunks and under-age persons.

**4.5** The committee gave consideration to the request by the police for a reduction in licensing hours. However, having examined the evidence and taking account of licensing policy, it was unable to conclude that such a restriction was appropriate to further the licensing objectives. This review was not the appropriate forum for making any finding as to the acceptable hours for the sale of alcohol to members of the public within Kettering from so called "off-licences". However, should any evidence of public nuisance or crime and disorder at the premises arising from the supply of alcohol from these premises in the early morning be placed before any future review hearing, a restriction of hours may be considered.

**4.6** The Committee heard that Kamal Paul is and has never been involved with the premises and is not a personal licence holder. However, the Committee noted that he conducted himself throughout the review hearing and appeared to give instructions to the PLH's representative as if he believed he was involved with the operation of the premises, notwithstanding his representations that he was simply supporting his father. The committee decided that the reason for his involvement with the operation of the premises was immaterial.

**4.7** However, given that there was insufficient evidence of the way in which his involvement with the premises was contrary to the promotion of the licensing objectives, the committee were minded not to take any action against the PLH on this occasion. Should further evidence come back before the committee at any future review hearing to show that Kamal Paul is involved in the operation of the premises contrary to the assurances given at the hearing, including acting as a member of staff, then the committee may be minded to take action against the PLH, provided that sufficient evidence is submitted that his involvement does not further the achievement of the licensing objectives.

**4.8** The committee also considered that there was insufficient evidence to show that public nuisance caused by litter from licensed premises within Kettering is attributable to these specific premises.

Signed .....

Committee Chairman

Date: