

Licensing Act 2003 Sub-Committee

Monday, 26 January 2015

Present: Councillor Marion Lowe (Chair), and Councillors Mike Handley and John Walker

Also in attendance

Officer: Jodi Fitzpatrick (Solicitor), Stephen Culleton (Lead Licensing and Enforcement Officer) and Dianne Scambler (Democratic and Member Services Officer)

15.LAS.42 DECLARATIONS OF ANY INTERESTS

No declarations of any interests were received.

15.LAS.43 PROCEDURE

The Chair outlined the procedure for the meeting.

15.LAS.44 SECTION 37 OF THE LICENSING ACT 2003: APPLICATION TO VARY A PREMISES LICENCE TO SPECIFY AN INDIVIDUAL AS A PREMISES SUPERVISOR

The Licensing Sub Committee considered an application from Mr Sirwan Darkala to vary a premises licence to specify a designated premises supervisor under Section 37 of the Licensing Act 2003 for the premises licence number PLA0396 known as K & M Deli at 90 Market Street, Chorley.

Lancashire Constabulary had made representation towards the application on 30 December 2014, with respect to the fact that Mr Darkala, who was the proposed Designated Premises Supervisor, had offences recorded against him which are not spent in relation to the Rehabilitation of Offenders Act 1974.

Lancashire Constabulary gave notice that they objected to the application to specify Mr Darkala as the Designated Premises Supervisor as he has offences recorded against him which are not spent in relation to the Rehabilitation of Offenders Act 1974.

Sgt Elsdon and Sgt Bushell from Lancashire Constabulary attended the hearing to explain the grounds for their objection. On 14 May 2014, Mr Darkala was found guilty at Preston Magistrates Court of 'Supplying tobacco products the producer has failed to comply with Regulation 4 to 10 requirements' contrary to s14 of the Tobacco Products (Manufacture, Presentation and Sale) (Safety) Regulations 2002 on 2 October 2013, for which he received a £500 fine. The offence comes under the 'Consumer Protection Act 1987' and refers to cigarettes being sold in non-compliant packaging. The regulations referred to are included in 'The Tobacco Products (Manufacture, Presentation and Sale) (Safety) Regulations 2002.

Although the offences for which he was convicted pertain to the sale of Tobacco, Lancashire Constabulary believed that he may have the propensity to commit similar crimes in relation to alcohol sales. The Sub Committee were also informed that Mr Darkala had a further three impending prosecutions for like offences, again in the Preston area. These prosecutions had been due to be heard on 16 January 2015, at Preston Magistrates Course, Mr Darkala had failed to attend and the case had been adjourned to 4 February 2015.

Lancashire Constabulary felt that in allowing Mr Darkala to act as the Designated Premises Supervisor in the above premises would undermine all four of the Licensing Objectives, these being the prevention of crime and disorder, public safety, prevention of public nuisance and the protection of children from harm.

Although invited, Mr Darkala did not attend the hearing to give his representations. The Licencing Sub Committee considered that the offences recorded against him warranted a decision being made in his absence.

The Sub Committee considered carefully all the information that was presented before them and having regard to the Licensing Act 2003, the guidance issued by the Secretary of State under S182 of the Licensing Act and the Councils Statement of Licensing Policy with a view to promoting the licensing objectives it **RESOLVED to refuse the application in order to promote the licensing objective of the Prevention of Crime and Disorder for the following reason:**

- **Mr Darkala has recent convictions in relation to the supply of tobacco products and pending prosecutions relating to similar offences. Although these offences pertain to tobacco, Members believed that he may have the propensity to commit similar crimes in relation to alcohol sales. No mitigating circumstances have been presented by Mr Darkala.**

Chair