

Licensing Sub-Committee

18 May 2016

Present: Councillor M A Green (Chair)
Councillors L Darke and J O'Shea

LSQ31/05/16 Appointment of Chair

Resolved that Councillor M A Green be appointed Chair for this meeting.

LSQ32/05/16 Declarations of Interest and Dispensations

There were no Declarations of Interest or Dispensations reported.

LSQ33/05/16 Application for a Premises Licence – Albadelle Mini Market, 159 Tynemouth Road, Howdon (Riverside Ward)

The Sub-Committee met to consider an application for a Premises Licence in relation to Albadelle Mini Market, 159 Tynemouth Road, Howdon. The applicant, Albert Bio, sought permission to supply alcohol, by way of off sales, each day of the week from between 07.00 hours and 22.00 hours with the shop being open to the public each day of the week for those same hours. The Council had received representations from Northumbria Police, Trading Standards, the Acting Director of Public Health, the Local Safeguarding Children Board and one local resident, all whom objected to the grant of a licence.

Following introductions, the Sub-Committee's legal advisor, set out the procedure to be followed during the course of the hearing. The Council's Licensing Officer then presented details of the application, the representations received and the options available to the Sub-Committee.

The applicant, Mr Bio, was present at the hearing. The Responsible Authorities were represented as follows, Insp. M Storey and N Kirkpatrick from Northumbria Police, A Burnett from Trading Standards, S Burns on behalf of the Local Safeguarding Children Board and W Burke, Acting Director of Public Health.

W Burke stated that there was insufficient detail in the application form as to how the applicant intended to promote the licensing objectives and, based on the evidence submitted by the Police and Trading Standards relating to the presence of alcohol and cannabis at the shop, she had no confidence that the applicant would protect children who visited the shop from harm.

Insp. Storey stated that between December 2015 and January 2016 the Police had received reports from the community of gangs of youths obtaining alcohol, cigarettes and drugs from the shop. In light of this information, the Police had visited the shop on 14 January 2016 when officers had been struck by a strong smell of cannabis. A small quantity of cannabis together with other drugs paraphernalia had been found. Despite initially denying that alcohol was stored on the premises, around 70 bottles and 65 cans of alcohol was discovered in the toilet area of the shop and seized by the Police. Mr Bio's car was also searched and four large bags of cigarettes were found in the rear of the vehicle. Trading Standards Officers attended the scene and they concluded that an amount of cigarettes were counterfeit and that two sets of scales in the shop did not comply with

weights and measures legislation. The cigarettes and scales were seized. Mr Bio had been reported for offences of selling alcohol without a licence and selling counterfeit cigarettes.

Following the search of the shop in January 2016, the Police had received intelligence to suggest that the sale of alcohol was no longer taking place from the shop but from Mr Bio's flat and so a search of Mr Bio's flat was undertaken by the Police on 5 March 2016. During the search a small quantity of alcohol was found and seized but no cannabis was found in the flat. The Police continued to receive reports of young people, sometimes intoxicated, hanging around the shop.

A Burnett confirmed that a trading standards officer had attended the shop at the request of the Police on 14 January 2016 when six packets of cigarettes had been found to be counterfeit. Two sets of scales had been seized from the shop as they were not approved under weights and measures legislation. One set were designed to be used for weighing items such as vegetables and the second smaller set could be used for weighing considerably smaller items. Insp. Storey commented that in his experience the smaller scales could be used to measure drugs although he had no evidence that these scales had been used for that purpose. Mr Burnett stated that given the problems associated with the shop, including the use of illegal scales, the discovery of counterfeit cigarettes and the intelligence received by the Police lead him to request that the Sub-Committee reject the application.

On behalf of the Local Safeguarding Children Board, S Burns expressed concern about the evidence from both the Police and Trading Standards which raised safeguarding concerns as it was well established that alcohol and drugs had a negative impact on children and young people. Ms Burns view was that Mr Bio had little or no regard for authority and she urged the Sub-Committee to refuse the application.

In response Mr Bio explained that he was applying for a Premises Licence to satisfy demand from his customers. Mr Bio denied having sold alcohol or cannabis to children, and he stated that there was no evidence that he had done so. He stated that there was nothing that he could do to stop children hanging around outside the shop. He described himself as being a "magnet" to children. Mr Bio explained that the shop had smelled of cannabis on 14 January 2016 because a customer had recently returned a grinder that had a small amount of cannabis in it. He believed he had a right to a licence and should be given a chance. If he then failed to comply with the law then the licence could be revoked.

During questioning Mr Bio stated that he had operated the shop for the past 9 months. During this period he had not been given any advice by the various authorities as to how he should operate the Premises, and so he had made some mistakes in setting up the business. He had made the drugs paraphernalia available in the shop for sale because he was undertaking research to ascertain what would sell and how many children would know about the paraphernalia. He stated that he would not sell any such paraphernalia to anyone who was underage and as there was no demand for it he would no longer be offering it for sale. Mr Bio stated that the alcohol found at the shop had been for a party and was not for sale. Mr Bio could not recall where the counterfeit cigarettes had come from but he accepted that he intended to sell them to the public. Whilst initially denying that he smoked cannabis, when challenged by Insp. Storey, Mr Bio admitted that he may have smoked cannabis the night before the hearing. Mr Bio stated that the micro scales seized by trading standards officers were available for sale in the shop.

All parties were given the opportunity to sum up their respective submissions.

The Sub-Committee withdrew from the meeting to make its decision in private. The Sub-Committee returned and the Chair announced its decision.

Resolved that the application for a Premises Licence in relation to the Albadelle Mini Market, 159 Tynemouth Road, Howdon be rejected.

Reasons for Decision:

Having heard the oral representations, having taken into account the written representations, and having had regard to the guidance issued by the Secretary of State under Section 182 of the Licensing Act 2003, North Tyneside Council's Statement of Licensing Policy and the licensing objectives which underpin the Licensing Act 2003, the Sub-Committee concluded that:-

- a) local intelligence received by the Police suggested that the shop had been used for the sale of alcohol and cannabis to children however there was no evidence to confirm that Mr Bio had supplied alcohol or drugs from the shop;
- b) the Police had found a small amount of cannabis in the shop;
- c) drugs paraphernalia associated with the smoking of cannabis had been offered for sale in the shop by Mr Bio;
- d) there was evidence to suggest that Mr Bio not only smoked cannabis, but that he had done so in the shop;
- e) there was sufficient evidence to lead the sub-committee to conclude that on the balance of probabilities Mr Bio had sold alcohol from the shop without the benefit of a licence;
- f) Mr Bio had in his possession counterfeit cigarettes and it is likely that those cigarettes would have been sold to the public;
- g) Mr Bio had in his possession scales which had not been inspected by the Local Weights and Measures Authority;
- h) Mr Bio had demonstrated total unpreparedness insofar as properly managing a shop;
- i) such are the concerns about Mr Bio's ability to promote the licensing objectives the sub-committee had no confidence that Mr Bio would adhere to any licence conditions imposed by it; and
- j) for the reasons set out above it was appropriate for the promotion of the licensing objectives to reject the application.