

Decision Maker: GENERAL PURPOSES AND LICENSING COMMITTEE

Date: 27 July 2011

Decision Type: Non-Urgent Non-Executive Non-Key

Title: REPRESENTATIONS TO THE HOME OFFICE ON APPEALS FOLLOWING DECISIONS TO REVOKE A LICENCE

Contact Officer: Paul Lehane , Head of Food, Safety and Licensing
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Chief Officer: Nigel Davies - Director of Environmental Services

Ward: All

1. Reason for report

To seek Members agreement to write to the Home Office to express concerns about the sale of a licensed business whilst subject to an Appeal at the Magistrates court following the Councils decision to revoke the Licence after a 'Review'.

2. **RECOMMENDATION(S)**

Members are asked to endorse the draft letter to the Home Office drawing their attention to the concerns set out in this report.

Corporate Policy

1. Policy Status: Existing policy. Statement of Licensing Policy 2011 - 2014
 2. BBB Priority: Excellent Council. Safer Bromley & vibrant thriving Town Centres
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Financial

1. Cost of proposal: N/A
 2. Ongoing costs: N/A.
 3. Budget head/performance centre: Public Protection & Safety Portfolio budget
 4. Total current budget for this head: £3.7 m
 5. Source of funding: Existing revenue budget 2011/12
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Staff

1. Number of staff (current and additional): 59
 2. If from existing staff resources, number of staff hours:
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Legal

1. Legal Requirement: Statutory requirement.
 2. Call-in: Call-in is not applicable.
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Customer Impact

1. Estimated number of users/beneficiaries (current and projected):
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Ward Councillor Views

1. Have Ward Councillors been asked for comments? N/A.
2. Summary of Ward Councillors comments:

3. COMMENTARY

- 3.1 Beckenham Convenience Store 268 High Street Beckenham was subject to two applications to 'Review' the licence under Section 51 Licensing Act 2003.
- 3.2 The first application was submitted by Councillor Wells (Copers Cope Ward) under the Crime and Disorder licensing objective for breach of licence conditions following after hours sales to Licensing Officers. The Review took place on 19 October 2010 and the Licensing Sub Committee decided to suspend the licence for two months and additional conditions were imposed.
- 3.3 The licence holder lodged an appeal at the Magistrates Court against the decision.
- 3.4 Before the Appeal was heard by the Magistrates further sales of alcohol after the permitted hours were obtained by the Licensing Team and this prompted the Metropolitan Police to seek a further Review which was heard on 21 March 2011. The Sub Committee decided to Revoke the licence. Members were informed at the hearing of the owner's intention to sell the business
- 3.5 The appeals were set for a hearing at the Magistrates Court for the 25 July 2011.
- 3.6 However prior to this date an application was made to Transfer the licence to a new Company who had purchased the business.
- 3.7 Despite the decision to Revoke the licence and the outstanding Appeal at the Court, the Council had no legal grounds to oppose the transfer. The Police were the only Responsible Authority who could object, enquiries were undertaken and they were satisfied that the new owners were unrelated to the original licence holder and that there were no exceptional grounds upon which to object. The transfer was granted.
- 3.8 Discussions concerning the Appeal and transfer were held with Cllr Owen as Chairman of GP &L Committee and Cllr Stevens as Chairman of the two Licensing Sub Committees who heard the Review applications and made the decision to Revoke the Licence. Both expressed dissatisfaction that the existing licence holder could undermine the decision of the Council by selling the businesses and transferring the licence in this way.
- 3.9 At the time of writing this report the Appeal outcome is unknown but as it is listed for hearing on 25 July 2011 a verbal update will be given at the Committee meeting.
- 3.10 Members may wish to suggest to the Home Office that the Licensing Act 2003 be amended to prevent a licence holder from transferring, varying a licence or changing the DPS whilst subject to an Appeal.
- 3.11 A draft letter to the Home Office is attached for Members to Consider. It is also suggested that the local MPs be sent a copy.

LEGAL IMPLICATIONS

The suggested change to the Licensing Act would preserve the Council's decision until an appeal against the decision can be determined.

Non-Applicable Sections:	FINANCIAL IMPLICATIONS PERSONNEL IMPLICATIONS POLICY IMPLICATIONS
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Background Documents: (Access via Contact Officer)	[Title of document and date]