

REVIEW APPLICATION – HILLSIDE STORES

SUBMISSION ON BEHALF OF THE PREMISES LICENCE HOLDER

Introduction

Although this application is brought by Dorest Police, the reality is that it concerns an allegation that the premises employed an “illegal worker”. As members will have seen from the papers, many of the facts are disputed but before addressing those, I respectfully submit that there are several “red herrings” that should be discounted entirely before proceeding further.

It is perhaps of note that although the Immigration Service would have been perfectly entitled to bring this application for Review themselves, they have chosen not to do so and further, that the application is only brought some 5 months after the incident complained of.

Members are reminded that in making their decision, they should take into account the circumstances as they stand at the time of the hearing.

The “red herrings”

The dog

Quite why this is even mentioned is something of a mystery to me but is irrelevant.

The NO2 cannisters

There is no suggestion that these were being offered for sale and my client has offered a perfectly good explanation as to their presence (in connection with a legitimate business that he previously ran). Trading Standards appear to have no issue with this.

Alleged breaches of Licence conditions

These allegations are largely made by the Immigration Service and do not bear up to scrutiny:

Challenge 25 posters were displayed in accordance with the Licence
There is no requirement to display the full licence – a summary is all that is required and that was displayed – visits by the Licensing Authority confirm that this and other requirements were complied with.

The offering of a bottle of (expensive) vodka as a “community raffle prize” is not a breach of the condition requiring alcohol to be sold at less than the complicated formula mandated by the mandatory conditions.

There is no requirement to have a “Licence on display by the till” nor

Was it a requirement not to have “a vape within easy reach of the countertop”
– No! .

The Lottery Terminal

Thanks to the Immigration Service, my client has lost a valuable source of income despite there having been no proper investigation. This is not directly relevant to any of the Licensing Objectives but is a matter to be taken into account in determining what steps the Licensing Authority should take now.

The Licensing Objectives

It seems that no issues are brought regarding:

Public Nuisance

Public Safety

The Protection of Children from harm

The only objective that is engaged is that of Prevention of Crime and Disorder and even then, there is no suggestion of any disorder associated with the premises nor come to that, any “crime” other than the allegation of employing an illegal worker (an “overstayer as opposed to someone what entered the country illegally).

We accept that it is not the role of the Licensing Sub-Committee to determine whether or not my client employed a person who had no right to work in the UK and that this is something that will (eventually) be determined by the Court proceedings that my client has initiated.

The issue is simply what steps it would NOW be appropriate for the Licensing Authority to take to promote the Licensing Objectives given that the review was only commenced some 5 months after the “trigger incident” and that is now almost 6 months ago.

As things stand, my client:

1. Faces a fine of £40,000 (which he is challenging)
2. Has lost his Lottery franchise
3. Is fully compliant with the terms and conditions of his licence
4. Has incurred significant legal fees in defending his position

Despite what might be said by the Police regarding the viability of the business, if he were to have his Licence revoked, the reality is that the business would no longer be viable and local residents would be deprived of a much-needed convenience store.

It would, I respectfully submit, be both unreasonable and disproportionate to either revoke the licence or to remove my client as the DPS and, given the existing conditions attached to the Licence, the appropriate course is to do nothing.

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