

LICENSING ACT SUB COMMITTEE

Wednesday, 14 June 2023

Present: Councillors A Hodson
B Hall
M Sullivan

1 APPOINTMENT OF CHAIR

Resolved – That Councillor A Hodson be appointed Chair for this meeting.

2 MEMBERS' CODE OF CONDUCT - DECLARATIONS OF INTEREST

Members of the Licensing Act Sub-Committee were asked to declare any disclosable pecuniary and non pecuniary interests in connection with any application on the agenda and state the nature of the interest.

No such declarations were made.

3 APPLICATION TO REVIEW A PREMISES LICENCE UNDER THE PROVISIONS OF THE LICENSING ACT 2003 - FAMILY SHOPPER, 164-166 BEDFORD ROAD, ROCK FERRY, CH42 2AS

The Director of Law and Governance reported upon an application that had been received from the Licensing Authority for a Review of a Premises Licence in respect of Family Shopper, 164-166 Bedford Road, Rock Ferry CH42 2AS, under the provisions of the Licensing Act 2003.

The Licensing Manager outlined the report and advised that the Licensing Act Sub-Committee may, having regard to the application for the Review and any relevant representations, take such of the following steps as it considered appropriate for the promotion of the licensing objectives:

- To modify the Conditions of the Licence
- Exclude a licensable activity from the scope of the Licence
- Remove the Designated Premises Supervisor
- Suspend the Licence for a period not exceeding three months; or
- Revoke the Licence

Members were informed that the Licensing Act Sub-Committee may decide that no action would be appropriate if it found that the review did not require it to take any steps that were appropriate to promote the licensing objectives.

It was reported that the premises currently hold a Premises Licence allowing the licensable activities as set out within the report.

The Licensing Manager reported that the application to review the Premises Licence had been received from the Licensing Authority on the grounds that illegal activity had been taking place at the premises. It had been identified that individuals had been working at the premises who were not legally entitled to live or work in the United Kingdom and the Licensing Authority considered that this undermined the licensing objective regarding the prevention of crime and disorder.

In respect of the review application, a representation had been received from the Home Office who supported the application to review the Premises Licence by the Licensing Authority. A copy of the representation was available.

The Licensing Authority were represented at the Hearing by Andrew Bushell, Licensing Operations Manager and Jo Moran, Licensing Enforcement Officer.

The Premises Licence Holder attended the meeting together with a Licensing Consultant.

The Licensing Manager confirmed that all documentation had been sent and received.

The Licensing Operations Manager addressed the Sub-Committee and reported that the business had held a Premises Licence since 21 December 2018. He provided a history of applications that had been made to transfer the Premises Licence and vary the Designated Premises Supervisor which resulted in SS becoming the Premises Licence Holder and the Designated Premises Supervisor from 25 June 2021. A Hearing to review the Premises Licence had been scheduled for 19 May 2023 to consider the Review application, however on 18 May 2023 an application had been received by the Licensing Authority to transfer the Premises Licence to RK and to vary the Designated Premises Supervisor to VVRN with immediate effect, therefore at the hearing on 19 May 2023, the Licensing Sub-Committee granted a request made on behalf of the current Premises Licence Holder to adjourn the Review Hearing to today's date.

The Licensing Operations Manager advised Members of the Sub-Committee that on 1 February 2023 a police officer had conducted a visit to the premises and discovered beer on sale at the premises which was beyond the best before date but was unable to discuss the matter with staff at the premises due to youths attacking his marked police car outside of the premises. Members of the Sub-Committee were informed that the same police officer returned to the premises with a Licensing Officer on 10 February 2023 when it was identified that two males who had been working in the shop and living

above the premises did not have the right to work in the UK and in addition were not legal residents of the UK. At the time of this visit the Licensing Officer was informed by one of the males that the owner of the shop was MS. The Licensing Officer spoke to MS and was advised by him that he had bought the shop and was going to apply to transfer the Premises Licence the following week. It was reported that no subsequent application had been made by MS and the Premises Licence continued to be held by SS until the most recent transfer to the current licence holder RK. It was further reported that whilst the males who did not have the right to work in the shop had said that they lived above the premises, the Licensing Officer had been provided with an address in Manchester as being their residential address. The males were subsequently cautioned and arrested on suspicion of being illegal immigrants.

Members were informed that the Licensing Authority had contacted SS, who was the Premises Licence Holder at that time who stated that he had sold the business in March 2022 and had not had any involvement in the business since then.

It was reported that a Licensing Officer had visited the premises on 17 May 2023 and was advised by a female working in the shop that she was legally entitled to work 20 hours per week and was attending college in Coventry 3 days a week.

It was submitted by the Licensing Authority that on 1 June 2023, Trading Standards Officers had conducted an inspection of the premises as a result of receiving information that the premises may be selling illegal vapes. During the visit, Officers found 27 illegal disposable vapes under the counter inside the premises, which were subsequently seized under their powers. It was the view of the Licensing Authority that this was a further example of illegal activity taking place at the premises. The Licensing Authority highlighted paragraphs 2.6, 11.27, 11.28 from the Statutory Guidance and having regard to this Guidance directed the Sub-Committee to give serious consideration to the revocation of the Premises Licence.

The Licensing Operations Manager responded to questions from Members of the Sub-Committee, the Legal Advisor to the Sub-Committee and the Licensing Consultant.

The Licensing Consultant representing the Premises Licence Holder addressed the Sub-Committee and submitted that changes had taken place since the Licensing Authority had visited the premises with Merseyside Police. It was further submitted that the current Premises Licence Holder could not be held responsible or accountable for what had happened in the premises before they became the Premises Licence holder. Members of the Sub-Committee were made aware that the previous Premises Licence Holder is

the owner of the building and is the landlord of the current Premises Licence Holder but that there is no other link between them.

The current Premises Licence Holder addressed the Sub-Committee and advised that she is a Junior Doctor working at London North West University Health Care Trust. The Premises Licence Holder, RK advised that she had invested in three other similar premises which were located in the Manchester area and that these premises operated without any cause for concern. She informed Members that the current Designated Premises Supervisor had held a Personal Licence for over 10 years and has experience of working in licensed premises and that there had been no objection from Merseyside Police to either the transfer of the Premises Licence or the change of Designated Premises Supervisor. The Premises Licence Holder informed Members that she had become interested in the business when she was made aware that a previous interested party could not afford the cost of the lease. Details of the lease agreement were provided to the Sub-Committee. Members were informed that the lease agreement involved PK Retail Ltd, that RK was the sole director of the company and that the registered office was also the home address provided to officers by the two individuals found to be working illegally at the premises on 10 February 2023.

The Premises Licence Holder and the Licensing Consultant responded to questions from the Licensing Operations Manager, Members of the Sub-Committee and their legal advisor.

In response to questions from Members of the Sub-Committee, the Premises Licence Holder advised Members that MS, who was referred to as the owner of the shop at the time of the visit on 10 February 2023, was a close friend and had previously worked in premises owned by her but that following the concerns raised regarding the visit on 10 February 2023, he no longer had any connection with any of her premises. It was submitted that the employment of individuals who did not have the legal right to work in the UK could not be associated with the current Premises Licence holder as this occurred prior to her taking ownership of the business. In response to the details provided by the Licensing Authority regarding the presence of illegal vapes in the premises, the Premises Licence Holder advised Members that the vapes had been purchased by the previous owner and that she was aware that legislation regarding the sale of vapes had changed to prohibit the sale of these particular vapes and therefore they had been placed in a sweet box and stored under the counter with the intention of seeking financial redress.

The Licensing Consultant submitted that the premises would be operated responsibly by RK, the current Premises Licence holder, as she could not allow there to be any damage to her reputation and standing as a Junior Doctor.

In determining the Review application Members had regard to the licensing objectives, the Council's Statement of Licensing Policy and relevant guidance issued under Section 182 of the Licensing Act 2003.

Members of the Sub-Committee had regard to the Statutory Guidance and acknowledged that the fact that two individuals had been working in the premises who did not have the legal right to be working in the UK should be taken seriously and that the revocation of the Premises Licence should be considered even in the first instance. Members gave serious consideration as to whether this was an appropriate step to take, however they also took into consideration that the current Premises Licence holder did not have responsibility for operating the premises at that time. Members also took into consideration the strong submissions made that the current Premises Licence holder could not allow any reputational damage due to her position as a Junior Doctor and that she would therefore have robust management procedures in place to prevent the employment of any individuals who do not have the right to work in the UK.

In coming to their decision, the Sub Committee accepted the explanation provided regarding the presence of illegal vapes in the premises. Members also took into consideration the fact that the current Premises Licence holder would not allow either MS or SS to have any involvement in the operation of the business. Members were satisfied that the cause of the concerns regarding illegal activity taking place at the premises was due to previous ownership and management of the premises.

Resolved –

- (1) That in accordance with Regulation 14(2) of the Licensing Act 2003, the public be excluded from the meeting during consideration of the application.**
- (2) That the Premises Licence be modified with the following conditions:**
 - The premises must record the details of the management and staffing structure of the premises. This record must include details of the roles and responsibilities of all persons working at the premises as well as each individual's right to work in the UK. This record must be available to an Authorised Officer on request.**
 - The premises must complete a live rota for the times when the premises is open, identifying the manager on duty and the staff on duty as well as their roles. This record must be available to an Authorised Officer on request.**

- **Prior to being allowed to sell alcohol at the premises staff must receive training in the following areas:**

The Licensing Objectives.

The responsibilities of staff in respect of the sale of alcohol under the Licensing Act 2003, including the requirement not to serve alcohol to persons under 18 years of age, or people who are drunk or appear to be drunk, including how to identify and refuse service.

The requirements of the Challenge 25 Policy.

The completion of the premises' incident and refusal registers.

- **A training record must be maintained for each individual member of staff which is signed by that individual to confirm that they have completed the training. These records must be kept at the premises and be available to an Authorised Officer of the Council or the Police upon request.**
- **Refresher training must take place at least every six months. This training must be documented and made available to an Authorised Officer on request.**