

LICENSING ACT 2003 SUB-COMMITTEE

Thursday, 28 April 2016

Present:

Councillors D Burgess-Joyce
 D Roberts
 J Salter

62 **APPOINTMENT OF CHAIR**

Resolved – That Councillor J Salter be appointed Chair for this meeting.

63 **MEMBERS' CODE OF CONDUCT - DECLARATIONS OF INTEREST**

Members of the 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.

64 **APPLICATION TO REVIEW A PREMISES LICENCE UNDER THE PROVISIONS OF THE LICENSING ACT 2003 - RS FOOD AND WINE, 52 DERBY ROAD, TRANMERE**

The Assistant Chief Executive reported upon an application that had been received from Trading Standards for the review of the Premises Licence in respect of RS Food and Wine, 52 Derby Road, Tranmere under the provisions of the Licensing Act 2003.

Members were informed that the premises currently hold a Premises Licence allowing the licensable activities as set out within the report. A copy of the Premises Licence setting out the hours and conditions attached to the licence was available.

The Assistant Chief Executive advised that the Sub-Committee may, having regard to the application for review and any other relevant representations, take such of the following steps as it considered appropriate for the promotion of the licensing objectives:

- 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.
- Revoke the Licence.

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

The grounds for review were in relation to counterfeit alcohol being sold at the premises.

Representations had been received from Wirral Licensing Authority, Environmental Health and Public Health.

The representations related to breaches of the Premises Licence and concerns that the licensing objectives were being undermined.

Representations had also been received from local residents supporting the operation of the business.

Heidi Jones, Trading Standards, attended the meeting together with Andrew Bushell, Wirral Licensing Authority and Tricia Cavanagh-Wilkinson, Public Health.

The Premises Licence Holder who was also the Designated Premises Supervisor was in attendance together with his representative, Mr Jordan.

The Licensing Manager confirmed that all documentation had been sent and received and that Mr J Hardwick, Environmental Health was unable to attend the meeting and had submitted authorisation for his Manager, Mr K Smith to make representations when he was in attendance.

Heidi Jones, Trading Standards reported that on 10 November 2015 the premises had been visited as part of a multi agency operation and that during this visit 354 bottles of Vodka bearing the Glen's label and 19 bottles of vodka bearing the Metropolis label had been seized. Ms Jones advised that subsequent investigations identified the vodka bearing the Glen's label was counterfeit. Members were informed that during a PACE interview with the Premises Licence Holder, Trading Standards had been informed that the vodka had been purchased by the Premises Licence Holder from a representative who had visited the store and that there had been no previous relationship between the premises and the supplier. Trading standards submitted that the invoice provided relating to these goods was a bogus invoice and that the company referred to in the invoice did not exist. Further enquiries made by Trading Standards could find no record of a company trading in the name of KP Wholesale Ltd. Ms Jones advised Members that a campaign had been undertaken in 2013 to tackle the sale of illegal alcohol which involved guidance being provided to retailers on how to avoid selling illegal alcohol. Evidence was provided by Trading Standards that RS Food and Wine had been given this advice after a visit to the licensed premises

which specifically included advice to retailers not to buy alcohol from an unknown source.

Ms Jones responded to questions from Mr Jordan.

Mr Bushell reported that during the multi agency visit on 10 November 2015, the conditions of the Premises Licence had not been complied with, in that the Premises Licence was not available at the premises, there was no evidence staff had received training and the refusals log had not been maintained. Mr Bushell advised that the premises had been issued with a warning letter in respect of these matters and that a further visit to the premises on 1 December 2015 found that the breaches had been rectified.

Mr Bushell responded to questions from Mr Jordan.

Ms T Cavanagh-Wilkinson, Public Health reported upon concerns in respect of public safety relating to the impact of the sale of counterfeit vodka and supported the request by Trading Standards that the Premises Licence be revoked.

Ms Cavanagh-Wilkinson responded to questions from Members of the Sub-Committee and the Licensing Manager.

Mr Jordan confirmed that he wished to cross examine the representative from Environmental Health who was not yet in attendance, therefore the meeting was adjourned.

The meeting reconvened and Mr Jordan advised that the Premises Licence Holder accepted the seriousness of the matter and that he had purchased and sold counterfeit alcohol at the Premises. He also sought to make assurances about the future management of the premises through proposed conditions which he believed would address the issues raised. Mr Jordan informed Members that the Premises Licence Holder had only ever made purchases from established cash and carry wholesalers except on this occasion. Members were advised that the Premises Licence Holder had extensive experience in the alcohol trade, which included working for Tesco in 1998. Mr Jordan informed Members that the purchasing of alcohol from an unknown supplier had been a mistake and that the Premises Licence Holder had not attempted to conceal the alcohol that he had purchased which was evidenced by the fact that both of the vodka products purchased were displayed in the premises. Mr Jordan further advised that it was his client's submission that he had not received any visit, or visits from ICE in respect of buying and selling illicit alcohol. Members considered the petitions and letters which showed support for the premises, however, the majority related to the general operation of the business.

Mr Jordan responded to questions from Members of the Sub-Committee, the Licensing Manager, Mr A Bayatti, Legal Advisor to the Sub-Committee, Ms H Jones and Mr A Bushell.

Members considered the representation made by Environmental Health and expressed their concern that bottles of vodka had been concealed behind kick plates below storage units at the premises. Members noted the risk posed to health by storing bottled drink products in that area. Members also noted that Advice had been given to the Premises Licence Holder in respect of cleaning the premises further to evidence of mice.

In determining the Review Application Members had regard to the Licensing Objectives, the Council's Statement of Licensing Policy and the Statutory Guidance issued under section 182 of the Licensing Act 2003, in particular, paragraphs 11.23 to 11.28.

Members considered the submissions made by Trading Standards, the representations made by the Licensing Authority Environmental Health and Public Health and the submissions made by Mr Jordan on behalf of the Premises Licence Holder.

Members gave consideration to the conditions put forward by Mr Jordan which he believed would address the concerns which led to the review. Members took into account evidence provided by the Licensing Authority that conditions attached to the Licence had previously been breached. In determining the appropriateness of the conditions proposed the Licensing Act 2003 Sub-Committee did not consider that the proposed conditions would prevent the purchase and subsequent sale of counterfeit alcohol.

Members considered that the Premises Licence Holder should have been aware of the counterfeit alcohol and considered that the licensing objectives in respect of crime prevention and public safety had been seriously undermined.

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 in respect of RS Food and Wine, 52 Derby Road, Tranmere, be revoked.**