

**Minutes of the Licensing Sub-Committee 4
Tuesday, 29th November, 2022 at 10.00 am
In the Council Chamber, Council House, Dudley**

Present:-

Councillor M Evans (Chair)
Councillors M Howard and S Greenaway

Officers:-

L Rouse – Senior Licensing Clerk (Directorate of Public Realm), R Clark – Solicitor and G Gray – Democratic Services Officer (Directorate of Finance and Legal).

1 Declarations of Interest

No Member made a declaration of interest in accordance with the Members' Code of Conduct.

2 Minutes

Resolved

That the minutes of the meeting held on 26th April, 2022, be approved, in principal, as a correct record and signed.

3 **Application for Review of a Premises Licence – Dhanda Off Licence and Convenience Store**

A report of the Interim Director of Public Realm was submitted on an application for review of the premises licence in respect of the premises known as Dhanda Off Licence and Convenience Store.

The following were in attendance at the meeting: -

Mrs J Kaur – Premises Licence Holder
Mr Dubb – SZ Solicitors (Representative)
Mr R Jones – Environmental Health and Trading Standards
Mr K Maan – Environmental Health and Trading Standards
Ms D Jenkins – West Midlands Police
Ms K Turley – West Midlands Police
Mr N Slym – Licensing Authority

Following the introductions of those present, the Senior Licensing Clerk – (Licensing and Waste Enforcement) presented the report on behalf of the Council, advising that an application for the review of the premises licence had been received from the Public Protection Manager, Environmental Health and Trading Standards on 6th October, 2022. The grounds for the review related to the breach in licensing objectives concerning the prevention of crime and disorder and the protection of children from harm.

It was reported that representations in support of the application for review had been received from Immigration, West Midlands Police, the Licensing Authority and Children and Young People’s Safeguarding and Review, together with comments received from a local Ward Member. It was confirmed that copies of the application, together with supporting documentation had been circulated to Members of the Sub-Committee and responsible authorities accordingly.

Mr R Jones presented the case on behalf of Environmental Health and Trading Standards and in doing so reported that Trading Standards were the designated Responsible Authority for the purpose of the Licensing Act 2003 and that there had been breaches of disorder and protection and the protection of children from harm at Dhanda Off Licence and Convenience Store.

It was reported that Mrs Kaur held a personal licence issued by Sandwell Borough Council and was the Premises Licence Holder. Mr R Jones – Environment and Trading Standards provided an account regarding a test purchase of alcohol that had been carried out on 30th August, 2022 by Dudley MBC Trading Standards Officers, whereby a 16-year-old volunteer purchased a four pack of Strongbow Rose cider without challenge or being requested to provide identification. Following the sale, the seller identified himself and was cautioned by Officers. It was later established that the seller had been Mrs Kaur's brother-in-law.

Arising from the incident, subsequent enquiries were carried out with HM Immigration, which revealed that the seller had been working at the premises illegally.

Mr R Jones – Environment and Trading Standards recommended that the conditions, as set out in the information provided to the Sub-Committee, be imposed.

Further evidence from Trading Standards was provided concerning a complaint received regarding the sale of illegal vapes at the premises. A further visit was carried out, and a cabinet containing vape refills above the legal limit was identified. Subsequently, a caution and an advisory leaflet was issued. Mrs Kaur was present during the visit together with her brother-in-law who she advised had been assisting her only and was not working or employed at the shop.

It was reported that an additional complaint had been received on 24th October, 2022 concerning an underage child purchasing reputable branded alcohol, alcohol miniatures and vapes from the premises. In response to a question raised by Mr R Clark – Solicitor, Mrs Kaur confirmed that the alcohol miniatures referred to were not in stock on that date, however, the other branded alcoholic products mentioned were on general sale. Mrs Kaur further commented that on the date of the complaint her husband had been in attendance at the shop and assured her that no sale of the products specified had been made.

Mr R Jones reported that Mrs Kaur had attended an interview with Trading Standards, represented by her Solicitor. Mrs Kaur had made no comment during the interview, however, provided a prepared statement. The statement advised that on 30th August, 2022 Mrs Kaur's brother-in-law had been looking after the shop and had been under strict instructions not to sell alcohol and to sell general goods only.

In response to a statement advising that the vapes seized in November, 2022 had been old stock, and which were due to be returned, Mr R Jones – Environment and Trading Standards provided photographic evidence and confirmed that the vapes had been seized on 13th July, 2022, however, one of the packets found in November, 2022 had been dated as manufactured after this date.

It was reported that Close Circuit Television (CCTV) footage had also been requested and had not been provided within the required timescale. In response, Mrs Kaur's Solicitor stated that the CCTV footage had been offered to Trading Standards to download as she was unable to do so.

Ms D Jenkins presented the case on behalf of West Midlands Police and in doing so reported that following the information and evidence contained in the application for a review of the licence, on the grounds of the prevention of crime and disorder and the protection of children from harm, was fully supported.

Mr N Slym on behalf of the Licensing Authority provided an overview of the incidents and reported that the Licensing Authority had visited the premises on 7th September, 2022, when Mrs Kaur's brother-in-law had been the only person in attendance at the premises. Mrs Kaur's brother-in-law stated at that time that he would be working at the store for a few months. The Licensing Authority attended the revisited the premises on 26th September, 2022, on this occasion Mrs Kaur explained that her brother-in-law had been at the premises to cover for her medical appointments only.

The Licensing Authority confirmed that CCTV could be seen throughout the shop and that Challenge 25 posters and the premises licence were clearly displayed. Mr N Slym advised that the Licensing Authority supported the application for review and the addition of the conditions suggested by Trading Standards, to be included on the Licence due to the serious breach of the Licensing objectives.

Mr Dubb then presented the case on behalf of the Premises Licence Holder and in doing so advised that Mrs Kaur did not dispute the core issues raised in the review, in that Mrs Kaur's brother-in-law had been helping at the premises due to her ill health and had been her only source of help at the premises. It was confirmed that Mrs Kaur's husband had predominately been responsible for the purchase of goods for the store, however, she also purchased stock on occasions, and that the illegal vapes had been removed from the counter and from sale and were due to be returned. The Solicitor commented that Mrs Kaur had accepted responsibility and was remorseful, however, specified that the sale of alcohol and vapes had not been undertaken by herself.

In response to questions raised, Mrs Kaur confirmed that the vapes in excess of the legal limit had been removed from the counter and locked in a cabinet and were no longer available to be purchased. Should a customer request a larger refill they would be refused. In response Mr R Jones – Environment and Trading Standards provided photographic evidence highlighting the location of the cabinet being immediately under the counter and accessible, albeit being locked.

Mrs Kaur confirmed that she would be able to comply with the recommended conditions, however, the CCTV would take time to be repaired. Upon the request of the Chair, Mrs Kaur provided to the Sub-Committee the refusals register, in which there were entries made from when she had obtained the licence.

In response to a question raised by Mr R Clark – Solicitor, Mrs Kaur explained that she had experienced difficulties with children asking for vapes in 2022, stealing products and damaging the premises, which had resulted in two children being prohibited from the premises, leading to repercussions from their parents.

All parties were then provided with the opportunity to sum-up their case. Following which all parties withdrew from the meeting to enable the Sub-Committee to determine the application.

Upon reconvening, the decision was communicated to all parties, as follows:-

Resolved

- (1) That following careful consideration of the information contained in the report and presented at the meeting, the Premises Licence in respect of the premises known as Dhanda Off Licence and Convenience Store be suspended for a period of three weeks, to enable the Premises Licence Holder to obtain and install CCTV at the premises, with approval from Trading Standards.
- (2) That the following conditions be applied to the premises licence with immediate effect:-
 - (1) **Age Verification** – the premises will operate an age verification policy set at a minimum of ‘Challenge 25’. All staff authorised to sell alcohol will be trained in this policy and without exception adhere to it. Acceptable forms of identification to verify age will only include a passport, photographic driving licence or a Proof of Age Standards Scheme (PASS) such as Citizen Card or equivalent. No other form of identification will be accepted.

- (2) **Advisory Notices** – suitable age restricted advisory and warning notices are to be displayed **(1)** on the main door to the premises **(2)** at the point of sale **(3)** in prominent positions at all points within the premises where alcohol is displayed for sale to the public.
- (3) **Refusals Register** – a register for age restricted products will be maintained at the premises. This can be either a written register or an electronic version. As a minimum, the register will record the date, time and reason for the refusal of sale. All staff working on the premises will know of the existence of the register and will produce it at the time of request by any authorised officer from the Responsible Authority. The PLH, DPS or store manager will review the register once a week ensuring it is completed and accurate and for audit purposes be in a position to corroborate this review in writing or electronically. Failure to continue recording refusals due to a written register being full will be considered a breach of this particular condition.
- (4) **CCTV System** – a CCTV system will be installed at the premises and will record at all times when the premises are open for licensable activities. The equipment will be of such a type as to conform to the specifications set by West Midlands Police. It will record, as a minimum **(1)** those areas within the store where alcohol is displayed to the public and **(2)** the point of sale. The camera views of these areas will remain unobstructed at all times. The CCTV system will show the correct time and date and the equipment itself will be maintained so as to be in good working order.

Daily checks should be made of the CCTV system by a member of staff at the commencement of licensing hours to ensure it is in proper working order. All recorded images are to be stored for a **minimum of 31 days** and made available upon request to any authorised officer from the Responsible Authority. Whilst the premises are open for business during the licensing hours at least one member of staff will always be present who is suitably trained so as to know how to operate the CCTV system. Any CCTV hard drive that is replaced/repaired/renewed will be retained for a minimum of 31 days.

- (5) **Staff Training** – anyone employed to work on the premises who finds themselves on duty during licensable hours of business and being in a position where it is reasonable to expect them to potentially take payment from customers for goods which may include alcohol must have already completed an initial training programme in relation to the requirements of the Licensing Act 2003. This initial training must include a written test to verify the competency of that person. This initial training must be completed prior to that member of staff being left alone in the store for any period of time whatsoever. Existing employees will undertake refresher training every 12 months, as a minimum. A record of all staff training will be maintained and stored on the premises and produced upon request to an authorised officer from the Responsible Authority.
- (6) **Casual Staff** – during the hours of licensable activity and where any alcohol is visibly on display in the premises for sale to the public, persons who are not formally employed and trained to work at the premises are **NOT** to be left in temporary control regardless of the period of time. In the case of an emergency situation the PLH, DPS or store manager should close the store until a suitable member of staff can be present.

- (7) **Personnel File** – a file shall be maintained and stored at the premise for each member of staff authorised to sell alcohol. As a minimum, this must include proof of identity, date of birth, current home address and National Insurance Number. The only acceptable form of identity and age verification will be a signed copy of passport and/or driving licence. Proof of an address will include a letter from a current utility provider that clearly shows the name of the specific member of staff and not a relative or friend. Personnel files will be produced upon request to any authorised officer from the Responsible Authority.
- (8) **Proxy Sales** – any person suspected of attempting to purchase alcohol for anyone underage shall be refused service and an appropriate entry made within the Refusals Register.

The meeting ended at 12.05pm

CHAIR