

STATUTORY LICENSING SUB-COMMITTEE

Minutes of a Remote Meeting held on 17th July, 2024.

The Committee agenda is available [here](#).

The Meeting recording is available [here](#).

Present: Councillors P. Drake, M.J.G. Morgan and J.M. Norman.

Also present: Mr. D. Kumar (Licence Holder), Mr. L. Stelling (Licence Holder's Representative, Coleridge Law), Miss. P. Kumar (Family Member Translator), K. Evans (Licensing Officer – Vale of Glamorgan), I. Agostini-Green (Responsible Authority: Vale of Glamorgan Licensing Officer), J. Docherty (Legal Officer – Vale of Glamorgan), and A. Rudman (Democratic and Scrutiny Services Officer – Vale of Glamorgan).

(a) Announcement –

Prior to the commencement of the business of the Sub-Committee, the Democratic and Scrutiny Services Officer read the following statement: “May I remind everyone present that the meeting will be live streamed as well as recorded via the internet and this recording archived for future viewing”.

The Officer also advised that a copy of the procedure for the meeting was available to Elected Members within the agenda papers which had been circulated in advance of the meeting and that time would be afforded during proceedings to allow for any translation to take place as deemed necessary.

(b) Appointment of Chair –

RESOLVED – T H A T Councillor P. Drake be elected as the Chair for the duration of the Sub-Committee hearing.

(c) Declarations of Interest –

No declarations of interest were received.

(d) Licensing Act 2003 – Review of Premises Licence – D.K. Stores, 87 Court Road, Barry, CF63 1ET (LA) –

The Chair welcomed those present to the Sub-Committee hearing and thanked the Democratic and Scrutiny Services Officer for making introductions and advising of the procedure for the hearing to be followed as contained within the agenda.

The Chair subsequently invited the Licensing Authority to present the report to the Sub-Committee. The Licensing Authority was represented by Ms. Evans however, due to technical issues, Ms. Evans' colleague, Mrs. Agostini-Green, presented the case on Ms. Evans' behalf who later joined the meeting shortly after it began. Mrs. Agostini-Green advised that the report presented to the Sub-Committee was to consider and determine an application submitted by Licensing Enforcement to review the premises licence at D.K. Stores, 87 Court Road, Barry, CF63 1ET under Section 51 of the Licensing Act 2003.

The Licensing Authority had received an application to review premises licence PRM AS0663, pertaining to D.K. Stores, for which the premises Licence Holder was Mr. D. Kumar, and the Designated Premises Supervisor was Mrs. R. Datta. Both the review application and premises licence were appended to the report.

In accordance with the requirements of the Licensing Act 2003, the application was served on the premises Licence Holder and copies of the application were forwarded to the Responsible Authorities. During the statutory 28 day consultation period the application had been advertised in accordance with the regulations and no representations were received.

Section 51 of the Licensing Act 2003 provides that where a premises licence had effect, a Responsible Authority or any other person may apply to the relevant licensing authority for the review of the licence. This must relate to a concern arising at the premises in connection with any of the four licensing objectives. The application detailed concerns that the premises had undermined the protection of children from harm licensing objective by selling alcohol to a person under the age of 18, as well as breaching licensing conditions relating to underage sales.

In their capacity as Responsible Authority, Mrs. Agostini-Green apprised the Sub-Committee on the timeline of concerning events and related evidence as set out in detail within the review application, as well as eight suggested conditions that be imposed on the premises licence in relation to the Protection of Children from Harm licensing objective.

In conclusion, Mrs. Agostini-Green advised that the Sub-Committee was asked to determine the application having regard to the Council's Statement of Licensing Policy, the Guidance issued by the Home Office under Section 182 of the Licensing Act 2003, the application and any submissions. The options available to the Sub-Committee were to take no action, or alternatively take any of the following steps if they considered appropriate for the promotion of the licensing objectives:

- a) to modify the conditions of the licence;
- b) to exclude a licensable activity from the scope of the licence;
- c) to remove the designated premises supervisor;
- d) to suspend the licence for a period not exceeding three months;
- e) to revoke the licence.

Following the presentation of the report, the Chair invited the Licence Holder or their Representative to present their case, to which, the Applicant's Representative advised that the Licence Holder had admitted to the mistake and agreed with all of

the proposed conditions set out by the Responsible Authority. Furthermore, the Licence Holder had imposed most of the proposed conditions already and had full intentions to impose all going forward. Furthermore, the Licence Holder was taking steps to ensure that all staff members on the premises held a personal licence and offered to submit any information as necessary to the Local Authority on a monthly basis. The Licence Holder fully understood that he was liable for the undertakings of the business.

The Chair then asked all parties present if they had any questions of the Licence Holder.

In response to a question posed by Councillor Norman as to why the proposed conditions as accepted by the Licence Holder were not in place as standard previously, the Licence Holder's Representative advised that the Licence Holder and his wife, Mrs Datta, were ensuring that they checked staff understanding of service laws verbally with all staff employed at the premises and were confident that the two underage sale events, as documented by the Local Authority, were the only two of their kind. The Licence Holder acknowledged that previous paper records had not existed as expected, however measures had now been put in place to mitigate this and he would endeavour to ensure that all measures were in place going forward.

In response to a supplementary question and statement from Councillor Norman as to the age of staff at the premises as well as if staff had been trained properly, then the incidents under question would not have happened in the first place, the Licence Holder's Representative advised that the Licence Holder completely understood the Sub-Committee's concern and that the incidents were not acceptable. However, all that the Licence Holder could do moving forward was to improve practices and ensure that all necessary measures were in place. The Licence Holder also confirmed that all staff working at the premises were over the age of 18.

Councillor Morgan then noted that the issues in relation to staff at the premises related to suspension and relevant training being enacted and, in relation to staff supervision, queried if both the Licence Holder and the Designated Premises Supervisor were based at the premises. To which, the Applicant's Representative confirmed that both the Licence Holder and the Designated Premises Supervisor were operating from the premises.

In response to a supplementary question from Councillor Morgan as to whether the Licence Holder was content to accept the additional eight conditions as proposed by the Responsible Authority, the Appellant's Representative advised the Licence Holder was, however queried the practicalities of proposed condition 2 that "a contact telephone number for the premises Licence Holder / Designated Premises Supervisor or another nominated person shall be made available at all times when the shop is selling alcohol" over concerns that a readily available / displayed number could be misused and result in unwarranted contact. In response, the Licencing Authority confirmed that the condition related to a number available on request and not publicly displayed. To which, the Licence Holder offered to also provide an email address as well as a contact telephone number as an amendment to proposed condition 2.

The Responsible Authority then advised that the Licence Holder also had a second and separate business in another area within the Authority and therefore queried the Licence Holder's statement that they would be based at the premises. For clarification, the Licence Holder's Representative confirmed that the Licence Holder did have another business that both the Licence Holder and the Designated Premises Supervisor would also be visiting, however, in relation to the premises in question, they would be present at the premises on a daily basis and would ensure that at least one of them would be present at the premises at all times. Therefore, they would not both be present at the premises for all working hours however would take it in turns to be present at the premises. At which time, they would be talking to the staff working at the premises and checking the necessary records on a daily basis.

With the Chair's permission, the Licence Holder's Representative took the opportunity to advise the Sub-Committee that both of the Licence Holder's sons had recently undertaken a personal licence course in London and were intended to be full time staff within the premises once they had gained more experience.

Following a request raised by the Responsible Authority of the Licence Holder as to why the member of staff who had sold alcohol to a person underage on 22nd December 2023, and stated as reprimanded and their employment terminated by the Licence Holder on 5th February 2024, was seen to be working at the premises and confirmed as such to the Local Authority by the Designated Premises Supervisor on 28th May 2024, the Licence Holder confirmed that the individual's employment was terminated some time in February 2024 but the individual had returned for one day to cover staff absence due to sickness.

In response to a question raised by Councillor Morgan as to whether the Designated Premises Supervisor undertook the same responsibilities at any other premises, the Licence Holder's Representative confirmed that Mrs. Datta was only the Designated Premises Supervisor for the premises in question.

Having regard to the procedure for the hearing, the Chair confirmed with the Licensing Officer that there were no other representations from Interested Parties received and therefore invited those making representations at the hearing to sum up.

The Responsible Authority stated that the previous warning letters and correspondence from the Local Authority should have been enough of a warning to the Licence Holder to make improvements as necessary at a much earlier time. Therefore, in relation to the dealings to date, this displayed an unwillingness or a lack of capability shown by the Licence Holder to abide with the law.

The Licence Holder's Representative advised that the Licence Holder was absolutely engaged in the necessary requirements of his licence and recognised that appropriate actions should have been taken earlier.

With all parties having the opportunity to make their representations and no further questions from Members of the Sub-Committee, the Chair advised that the Sub-Committee would go into private deliberation, with the decision on the application to

be provided to all parties as soon as possible after the meeting and with written confirmation of the Sub-Committee's reasons to follow.

RESOLVED – T H A T the conditions of Licence PRM AS0663 be modified to include the following conditions, as proposed by the Responsible Authority and subsequently agreed by the Licence Holder:

1. A till with an automatic 'age prompt' shall be used at all times to assist staff carrying out age verification in respect of alcohol sales, and other age restricted products (to be installed within 2 months of decision).
2. Both a contact telephone number and email address for the Premises Licence Holder / Designated Premises Supervisor or another nominated person shall be made available at all times when the shop is selling alcohol. The telephone number and email address shall be made available to residents, customers and responsible authorities on request.
3. In the absence of the Designated Premises Supervisor a nominated person shall be in control of the premises – this nomination will be in writing and a record of this will be available for inspection.
4. All staff selling alcohol shall be authorised in writing to sell alcohol and a record of the authorisation will be kept in the shop available for inspection by authorised persons.
5. All staff authorised to sell alcohol shall be provided with training on first appointment and then refresher training shall be provided quarterly. Training will include information on age restrictions / Challenge 25, the sale of alcohol to somebody who is drunk, and proxy sales. A written record of all training carried out shall be kept. These records shall be made available for inspection by the Police and the Local Authority on request (to replace current training condition).
6. A notice(s) shall be clearly displayed in and at the entrance to the premises advising customers that there is a Challenge 25 policy in place.
7. A due diligence checklist (aimed at preventing any underage sales and maintaining good records) shall be kept available for inspection by the Police and other authorised officers.
8. A notice(s) shall be displayed in the premises where they can be seen clearly to advise customers that it is unlawful for persons under 18 to purchase alcohol or for any persons to purchase alcohol on behalf of any person under the age of 18.

Reasons for decision

In reaching its decision, the Sub-Committee has considered the review along with all those who have made both written and oral submissions. It has taken into account

the Licensing Act 2003 as amended, in particular the licensing objectives and the Home Office Guidance along with the Council's Statement of Licensing Policy.

The sub-committee were concerned about the instances of sale of alcohol to underage persons on more than one occasion in breach of the existing Licence. The sub-committee acknowledged the unqualified admission of the owners, their remorse, and the fact that they have already taken steps to provide further training and maintain training records in line with the conditions of the Licence. Notwithstanding this, the sub-committee felt that the modification of the Licence to include further conditions as set out in the Officers Report was justified to prevent future occurrences of underage sales and protect children from harm.