



LICENSING ACT 2003

Review of a Premises Licence Decision Record

APPLICANT: Rushmoor Borough Council as a Responsible Authority

PREMISES: Pound Galaxy, Nos. 12-14 Union Street, Aldershot

DATE OF HEARING: 17th July, 2024

MEMBERS SITTING: Cllrs Gaynor Austin, Bill O'Donovan and Jacqui Vosper (Chairman)

DECISION

The Sub-Committee decided to revoke the licence.

REASONS

At the outset of the hearing, the Sub-Committee voted to exclude the public from all of the hearing as it considered that the public interest in so doing outweighed the public interest in the hearing taking place in public. This was due to the representation from Hampshire Trading Standards for the public to be excluded to avoid the disclosure of exempt information within Schedule 12A to the Local Government Act 172, specifically information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.

The Sub-Committee deliberated in private. The legal adviser and Committee Administrator were present but, save for assisting with legal advice, provision of documents and drafting the reasoning, played no part in the decision-making process.

The Sub-Committee, as a whole, took into account that it must promote the licensing objectives and must have regard to the Secretary of State's National Guidance, made under s.182 of the Licensing Act along with the Council's own Licensing Policy. Due consideration was given to the written material contained in the paperwork and the oral evidence and representations at the meeting as well as the relevant legislation, guidance and policies of Rushmoor Borough Council. This material included better copies of documents already in the bundle including selected pages from a refusals log, along with a redacted statement dated 8th July, 2024 provided by Aimee Vosser, Licensing Officer, via email dated 12th July, 2024. The Sub-Committee also viewed the following CCTV clips referred to at pages 35 to 37 of the bundle: videos 1, 2, 5, 6, 7, 8, 9 and 10; and the following CCTV clips referred to at page 38 of the bundle: video 2.

The decision was based upon an appreciation of the likely effect of the granting of the review upon the promotion of the four Licensing Objectives: the prevention of crime and disorder, public safety, the prevention of public nuisance and the protection of children from harm. A stepped and measured approach was considered.

The Sub-Committee carefully considered the history of the premises and noted that this was a second set of review proceedings inside the past twelve months and that the licence had only been granted approximately two years ago. It also considered the fact that the previous review proceedings had been initiated due to concerns about the protection of children from harm.

The Sub-Committee considered the failed test purchase on 4th June, 2024 in respect of the sale of a vape. It acknowledged that the other evidence also related to vape sales. It considered these relevant because they showed an attitude towards the legislation and the licensing regime. The Sub-Committee considered the compliance, or otherwise, with the existing conditions, changes made, or not, to the management of the staff and the premises due to the previous review proceedings (which were ultimately withdrawn by agreement) and the actions taken by the licence holder since these review proceedings had been initiated.

The Sub-Committee considered that the licence holder submitted that removing the Designated Premises Supervisor (DPS) and suspending the licence for a period not exceeding three months whilst a replacement DPS was appointed would deal with the issues raised in the review. It considered that against the Applicant's position (supported by Hampshire Constabulary and Hampshire County Council Trading Standards) that revocation of the licence was the only way to deal with the issues raised in the review.

The Sub-Committee considered the licence holder's representations about the issues being addressed at the premises by the replacement of ineffective staff and that training would be outsourced to ensure employees were fully aware of their responsibilities and obligations and their improvements to their management systems such as the use of a new refusals book.

The Sub-Committee also took into account the fact that a number of conditions had been breached and the licence holder accepted that there had been some breaches and took responsibility for them. It also took into account that the licence holder and the DPS had not failed any test purchases themselves and that the knife test purchase was successfully passed by the premises. It also heard that the licence holder asserted that some alleged breaches of the conditions/legislation were not properly evidenced and were not accepted.

The Sub-Committee took into account the licence holder stating that he had sold vapes previously without implementing the Challenge 25 procedure but this was because he had seen ID before and knew they were not under age or that an employee who was present assured him that the customer had previously shown ID to show they were not under age. The Sub-Committee also took into account the licence holder stating that he did not appreciate that the child seemingly wearing school uniform purchased a vape (video 6 as referred to above).

The Sub-Committee took into account the licence holder stating that a sale of alcohol took place outside licensed hours because the employee didn't appreciate the time and, in respect of alcohol being on display outside licensed hours, there was a blind that was operated in respect of the alcohol in the fridges and a blind would be installed in respect of the spirits on display behind the till. In addition, the licence holder stated that he did not know, until these review proceedings, that

it was a criminal offence under section 137 of the Licensing Act to have those items on display.

The Sub-Committee decided that the only proportionate measure to take, to promote the licensing objectives, was to revoke the licence. It considered that the evidence showed that the systems in operation, whether supervised by the licence holder or whether operated by the licence holder personally, were ineffective. These systems applied to a number of matters including, but not limited to, the operation of the Challenge 25 procedure, the display of alcohol at incorrect times (that being a criminal offence), the sale of alcohol at incorrect times and the continued complaints, despite review proceedings being brought up previously.

Reluctantly, the Sub-Committee felt no other measure was available. The change of a DPS and/or a period of suspension would not change, in reality, the ineffective operation of the premises.

The licence holder and the employees know that selling vapes to children is illegal. His explanations for the multitude of breaches of conditions and/or illegal sales were not credible. His account was contradicted by a number of sources such as some of the CCTV footage. It was also contradicted by the evidence given to the Police of one child stating that they had purchased vapes at the premises repeatedly.

These failures were of great concern because the previous warnings and first set of review proceedings did not result in systems being put in place to avoid the matter coming back to the Sub-Committee.

Any party who has made a relevant representation may appeal to the Magistrates' Court in writing within 21 days of receipt of this written decision.