

LICENSING SUB COMMITTEE

**Meeting held in the Council Chamber, Council Offices, Urban Road, Kirkby-in-Ashfield,
on Wednesday, 11th January, 2023 at 11.00 am**

Present: Councillor Warren Nuttall in the Chair;
Councillors Arnie Hankin and Andy Meakin.

Officers Present: Julian Alison, Lynn Cain, Hannah Cash and Sara Scott-Greene.

LSC.3 Declarations of Disclosable Pecuniary or Personal Interests and/or Non-Registrable Interests

No declarations of interest were made.

LSC.4 Review Hearing Application: Buy & Save, 7 High Street, Stanton Hill

The Chairman introduced himself and asked the Committee Members, Officers and those parties present to introduce themselves.

In attendance were the following:

Inspector Jon Hewitt (Nottinghamshire Police - Applicant)
Adrian Paling (Nottinghamshire Police - Applicant)
Emma Heath-Tilford (Nottinghamshire Police - Applicant)
Ravidu Hewa Waduge (Licence Holder)
Simon King (Solicitor representing the Licence Holder)

The Council's Legal Representative explained the procedure to be followed throughout the hearing.

The Licensing Manager then proceeded to outline the application for a review of the Premises Licence.

The Chairman then invited the Applicant to put forward their case to the Sub Committee.

Following this and in accordance with adopted procedure, the Licence Holder, Sub-Committee Members and Legal Officer were given the opportunity to ask questions of the Applicant for the purposes of clarity and further explanation.

The Licence Holder (and representing Solicitor were then invited to put forward their response.

Following this and in accordance with adopted procedure the Applicant, the Sub Committee Members and Legal Officer were given the opportunity to ask questions of the Licence Holder and his representing Solicitor for the purposes of clarity and further explanation.

Finally, the Chairman invited the Applicant and the Licence Holder and his representing Solicitor to sum up their respective cases.

The Chairman and Members of the Sub Committee then withdrew from the hearing in order to deliberate upon the application and representations made in respect of it.

The hearing was adjourned at 11.31am.

The Chairman and Sub Committee Members subsequently returned to the room and the hearing reconvened at 11.45am.

The Legal Officer delivered the Sub Committee's findings, the decision and the reason as follows:-

RESOLVED

that the decision of the Licensing Sub Committee (in exercise of its powers delegated by Ashfield District Council as Licensing Authority), was to:

REVOKE the premises licence held by Mr. Ravidu Hewa Waduge for Buy & Save (7 Till 10), 7 High Street, Stanton Hill, Nottinghamshire, NG17 3GG.

Findings

1. The Premises has been closed since 15 November 2022 following service of a Closure Notice by Nottinghamshire Police. A 3 month Closure Order was made pursuant to the Anti-Social Behaviour, Crime and Policing Act 2014, at Mansfield Magistrates' Court on 1 December 2022
2. Leading up to the closure of the Premises a number of inspections and test purchases were carried out by Nottinghamshire Police, Trading Standards and Ashfield District Council. Breaches of both the Premises Licence and other legislation were found at these inspections. Advice was given and warning letters sent however matters did not improve.
 - 20/11/21 - Failed test purchase – sale of a knife to an underage person.
 - **29/11/21 - Warning letter from ADC re CCTV.**
 - **11/05/22 - Letter to Premises Licence Holder from ADC regarding allegations of sales of alcohol to persons under the age of 18.**
 - **07/07/22 – Letter to Premises Licence Holder from ADC regarding allegations of sales of alcohol to persons under the age of 18.**

- 19/08/22 - Compliance visit by Nottinghamshire Police Licensing Officer – breaches of the licence relating to CCTV, Challenge 25 and Staff Training. Counterfeit cigarettes identified.
 - **22/08/22 – Written warning from Nottinghamshire Police Licensing Enforcement Officer regarding CCTV, Challenge 25 and Staff Training.**
 - 01/09/22 Re-visit by Nottinghamshire Police Licensing Officer – breaches of the licence relating to CCTV, Challenge 25 and Staff Training. Suspected non-compliant Vapes on sale.
 - **02/09/22 - Written warning from Nottinghamshire Police Licensing Enforcement Officer regarding CCTV, Challenge 25 and Staff Training.**
 - 06/09/22 Visit by Nottinghamshire Police and Nottinghamshire Trading Standards – seizure of 1400 non-compliant vapes and 30 packs of counterfeit cigarettes.
 - 05/10/22 Visit by Nottinghamshire Police and Nottinghamshire Trading Standards – seizure of non-compliant vapes, 20 bottles of suspected counterfeit vodka, 16 packets of cannabis infused confectionary and 3 large knives.
 - 14/11/22 - Failed test purchase – sale of Vapes to 16 year old
 - 15/11/22 - Visit by Nottinghamshire Police and Nottinghamshire Trading Standards – 100 non-compliant vapes found on the premises
 - **15/11/22 – Issue of closure notice**
 - **17/11/22 – Closure Order hearing – case adjourned**
 - **01/12/22 – Closure Order made**
3. The Premises Licence Holder did not dispute these events and accepted that the premises had not been run in a proper manner.

Reasons

1. In relation to each of the Licensing Objectives, and relevant to this case, the Statutory Guidance states:

Crime and Disorder

2.1 Licensing authorities should look to the police as the main source of advice on crime and disorder.

Public Safety

2.7 Licence holders have a responsibility to ensure the safety of those using their premises as part of their duties under the 2003 Act....

2.8 A number of matters should be considered in relation to public safety. These may include:

- *Fire safety;*
- *Ensuring appropriate access for emergency services such as ambulances;*
- *Good communication with local authorities and emergency services*

Public Nuisance

2.15 ...It is therefore important that in considering the promotion of this licensing objective, licensing authorities and responsible authorities focus on the effect of the licensing activities at the specific premises on persons living and working (including those carrying on business) in the area around the premises which may be disproportionate and unreasonable.

Protection of Children from Harm

2.22 The protection of children from harm includes the protection of children from moral, psychological and physical harm....

2.23 The Government believes that it is completely unacceptable to sell alcohol to children....

2. The Sub-Committee found that each of the four Licensing Objectives had been undermined by the way the Premises were managed up to the point the Closure Order was made.
3. There is at times a cross-over between the licensing objectives however the Sub-Committee considered that the sale of alcohol and knives to underage children, the sale of drugs, the failure to properly institute a Challenge 21 policy, the failure to comply with the CCTV condition and the possession of knives within the Premises all seriously undermined the licensing objectives of the Prevention of Crime and Disorder, the Protection of Children from Harm and Public Safety. The overcrowded and poor physical condition of the premises, failure to comply with CCTV licence conditions, the sale of non-compliant Vapes and counterfeit cigarettes and alcohol also undermined the Public Safety objective. The sale of non-compliant and counterfeit goods also undermined the Prevention of Crime and Disorder objective. It was noted that the sale to underage children of alcohol and knives can lead to anti-social and criminal behaviour in the locality of a Premises and that the area around the store had been a hot spot for reports of anti-social behaviour according to Police records.
4. The Sub-Committee noted that the Licence holder had been out of the Country during the first inspection however it was confirmed on his behalf at the hearing that he had not taken any action on his return to remedy the breaches found at that time, or to ensure that staff working at the Premises had adequate training.

5. Of particular concern to the Sub-Committee was the fact that the Licence Holder was given multiple opportunities to address the failings within the business over a period of 12 months. Despite interventions and contact from different regulatory authorities the Licence Holder failed to engage with them or to seek advice. No attempt was made to make changes to the way the Premises were run to ensure the licensing objectives would no longer be undermined and that they would be promoted going forward. The fact the same breaches were repeatedly found at follow up inspections showed a complete disregard for the licensing objectives and a lack of understanding of the responsibilities of a Premises Licence Holder.
6. It was acknowledged by the Licence Holder that there had been substantial failures and it was submitted on his behalf that he had not previously appreciated the importance of complying with his responsibilities. The Sub-Committee were concerned by this statement; they consider that having a proper understanding of the responsibilities of a licence holder is an essential part of applying for and holding a licence. As part of the application process applicants should 'have regard to the Statement of Licensing Policy for their area. They must also be aware of the expectations of the licensing authority and the responsible authorities as to the steps that are appropriate for the promotion of the licensing objectives..' (para 8.41 Statutory Guidance). The fact that the Licence Holder had no understanding of the importance of upholding the licensing objectives, particularly given the previous enforcement action, was of great concern.
7. Considering all of the evidence before them (in particular the repeated licence breaches, failed test purchases, the sale of counterfeit and non-compliant goods, the sale of drugs, the possession of knives at the Premises) and the fact that the Premises Licence Holder had been given numerous opportunities to resolve these issues prior to the Court issuing a Closure Order on the Premises, the Sub-Committee felt that there was no action that could be taken to ensure the promotion of the licensing objectives other than the revocation of the Premises Licence.

The Panel carefully considered all of the information provided in the Application and the representations made on behalf of the Applicant and Premises Licence holder at the hearing. The Panel also took in to account the Council's Statement of Licensing Policy, the guidance issued by the Secretary of State under s182 of the Licensing Act 2003 (the 'Statutory Guidance') and the four licensing objectives, namely:

- The Prevention of Crime and Disorder
- Public Safety
- The Prevention of Public Nuisance
- The Protection of Children from Harm

Appeal

The parties to the hearing were reminded that there is a right to appeal against the decision to the Mansfield Magistrates Court, Rosemary Street, Mansfield, Nottinghamshire, exercisable within 21 days from the date of notification of the Licensing Authority's decision.

The meeting closed at 11.46 am

Chairman.