

Licensing Sub-Committee

Thursday, 8th February, 2024

PRESENT: Councillor S Holroyd-Case in the Chair

Councillors N Buckley and I Wilson

1 Election of the Chair

RESOLVED – To elect Councillor Holroyd-Case as Chair for the duration of the meeting.

2 Appeals Against Refusal of Inspection of Documents

There were no appeals.

3 Exempt Information - Possible Exclusion of the Press and Public

There were no exempt items.

4 Late Items

There were no formal late items. However, supplementary information was published on the council's website prior to the meeting. Information related to Agenda Item 6 – Review of the Premises Licence for Mama Rose Food and Wine, 23 Compton Road, Burmantofts, Leeds, LS9 7BJ. Minute No.6 refers.

5 Declaration of Interests

No interests were raised.

6 Review of the Premises Licence for Mama Rose Food And Wine, 23 Compton Road, Burmantofts, Leeds, LS9 7BJ

The report of the Chief Officer (Elections and Regulatory) informed the Sub Committee that West Yorkshire Police has served on the Licensing Authority an application under Section 51 of the Licensing Act 2003 for a review of a premises licence in respect of Mama Rose Food and Wine, 23 Compton Road, Burmantofts, LS9 7BJ.

The grounds of the review relate to the seizure of illicit tobacco, non-duty paid alcohol, illegal vapes and a failed test purchase.

Prior to the meeting, supplementary information was published on the council website in the form of statements and additional information received from West Yorkshire Police and the Licence Holder's Representative.

The following were in attendance for this item:

- PC Andy Clifford, West Yorkshire Police – Review Applicant
- Carmel Brennand, Entertainment Licensing – Representation in support of the review application
- Chetna Patel, Public Health – Representation in support of the review application
- Chris Rees-Gay, Woods Whur Solicitors – Licence Holder's representative

- Councillor S Arif, Local Ward Member – Representation in support of the review application
- Blind Naamani, Compton Stores Leeds Limited, Licence Holder
- Hekmat Redini, Designated Premises Supervisor

The Legal Adviser to the Sub-Committee outlined the procedure for the hearing.

The Licensing Officer highlighted the following information:

- The premises has failed 2 test purchases regarding illicit tobacco.
- The agenda pack includes witness statements from HMRC and Trading Standards. As well as photographic evidence.
- Applications were received to transfer the licence to Compton Leeds Ltd. and the DPS. Both were granted as applied for and no objections were received.
- The licence authorises sale by retail of alcohol Monday – Saturday 06:30 until 21:00 and Sundays 08:00 until 21:00.
- Representations have been received in support of the review application on behalf of a Senior Liaison and Enforcement Officer (LCC, Entertainment Licensing), Public Health and the Local Ward Councillors.
- The options available to the Sub-Committee were outlined, as per the guidance issued under s182 of the Licensing Act 2003.

West Yorkshire Police informed the Sub-Committee and provided the following information:

- The sale of illicit tobacco is considered a serious offence and the types of goods seized are smuggled items bought cheaply from parts of Europe and outside of the UK. The premises are selling such products in the region of £3.50 - £4.00, where usually they would cost around £14.
- The cigarettes sold are unregulated products and could contain contaminated products.
- 2.5 billion pounds from the sale of such non-duty paid products, depletes funding for essential services such as hospitals, where associated illnesses are being treated. Also, responsible retailers are closing because of the poorly operated premises surviving.
- An application to transfer the premises licence is usually a common tactic when an application is put forward for a review. West Yorkshire Police could not link the operators, therefore did not object to the transfer of the premises licence. Further to this, evidence shows that the previous owner is still paying the utilities bill and is named on the British Gas account for the premises. The police consider that whoever is paying the bills, is ultimately the one in charge of the business.
- An observation evidenced that the premises has sold single cans of stella.

Further to questions from Sub-Committee Members, West Yorkshire Police confirmed the following:

- The licensing issues associated with the Harehills area and Burmantofts area is an on-going piece of work that will take several years to gain control over. A lot of resource has gone into the joint operation in the area, and almost every premises that has been targeted has been found with illicit products and/or experiencing issues.

- Trading Standards informed the police that the electricity metre for the premises had been tampered with and the previous owner was not paying for the amount he was using. When British Gas were questioned, they confirmed that the previous operator is still paying for the gas and electric and has ultimate control over the utilities.
- In responding to a question regarding not objecting to the transfer of the premises licence, the police explained that it is difficult to link two people. People tend to have wide groups of associates. It is un-known why the previous owner is paying for the utility bills.
- A British Gas engineer offered details in writing recalling the sale of the single can of stella. The premises is situated right in the middle of where street drinking in Harehills is in its prime and the premises should not be selling single cans to people, irrespective of whether or not they are neighbours. The police have been unable to do any further investigations regarding the sale of single cans, as the intelligence was only received a few days before the hearing. Otherwise, the police would have questioned the premises on this.

The Senior Liaison and Enforcement Officer (Entertainment Licensing) informed the Sub-Committee and provided the following information:

- Ms Brennand has been a Senior Liaison and Enforcement Officer for 18 years and has been responsible for the Harehills area for all but two of those years.
- The premises has been licensed as of 3rd November 2011.
- Mr Ahmed became the Premises Licence Holder with immediate effect from 15th February 2022 and Mr Patel the Designated Premises Supervisor since 26th August 2015. From all the visits to the premises, officers did not meet Mr Ahmed and conversations were with Mr Saleh.
- Officers met Mr Saleh on 11th February 2022 where several breaches were highlighted to him, including the CCTV only recording for 11 days and not the required 31 days. This is a breach under Section 136 of the Licensing Act 2003. There has also been a change in the layout of the premises. Changes are required to be submitted with a minor variation to show the new layout of the shop. This wasn't received until 11th May 2022 and an email received on 14th May 2022 showing CCTV recording for 31 days, meaning 3 months of selling alcohol were non-compliant and unlawful.
- In March 2023, a large number of illicit goods were seized from the premises, an unpaid duty of nearly £6k - not the street value, but the amount owed to the Government. Mr Saleh was on-site at the time of the visits.
- 23rd August 2023, staff were unable to operate the CCTV system. On 31st August 2023 the system was operating but not retaining footage for the minimum requirement of 31 days. Part A of the licence was also unavailable on the premises and an offence under Section 57 of the Licensing Act 2003.
- On 3rd October 2023 and 24th October 2023, officers from Trading Standards purchased illicit cigarettes.
- 2nd November 2023 is when the multi-agency operation took place and illicit goods were seized. Several products were found inside concealments inside of the premises, and a vehicle owned by Mr Qadree. 93 illegal disposable vapes were also seized from the premises. Mr Saleh was on-site at the time of the visit, and parts A and B of the premises licence were not the correct ones.

- On 16th November 2023, LCC Entertainment Licensing received a review for the premises.
- On 13th December 2023, LCC Entertainment Licensing received an application for Mr Saleh to be specified as the Designated Premises Supervisor. This was objected to on the grounds he was present during the visits where illicit goods were seized.
- On 21st December 2023, Mr Rees-Gay would be representing the premises in respect of the review.
- On 29th December 2023, despite the allegations, the previous owner put forward his business for sale. In less than a month 2 potential buyers and 2 Designated Premises Supervisors were proposed. There were no objections to transfer the premises licence to Compton Stores Ltd., and to the application to specify Mr Redini as the Designated Premises Supervisor.
- On 24th January 2024, a visit was undertaken, and no breaches or offences were committed. Mr Naamani was on-site at the time of the visit.
- It is considered an 'odd' arrangement for Mr Saleh to be paying the utility bills and the sale of agreement means that Mr Saleh will be receiving monthly payments for the next 8-9 months. It is considered that this type of financial gain, may hold some control over Mr Naamani.

Further to questions from Sub-Committee Members, the following was confirmed:

- Mr Naamani has confirmed that Mr Saleh has been paying for the utility bills and Mr Saleh is the business rates payer for the premises.
- It is becoming unique in the Harehills area that an individual involved with running a business, is sometimes not named on the premises licence.

The Public Health representative informed the Sub-Committee, providing the following information:

- The focus of the representation is protecting children from harm.
- There are a lot of health inequalities that exist in Harehills.
- The service uses a calculated risk tool to estimate alcohol harm for each Middle Super Output Area (MSOA). The MSOA places an overall score into a comparative risk ranking, and there is 107 in Leeds, with 1 being the most harmful. Harehills ranks high in terms of looked after children and anti-social behaviour related crime linked with alcohol. There is also the highest number of children aged under 16, which is marked as 1.
- There is the highest number of pupils not achieving maths and English in school, being marked as 1 out of 107 in Leeds.
- Noise nuisance and the normalisation of alcohol influences children.
- GIPSAL centre where vulnerable children are supported, is a short walk away from the premises.
- Residents have already said they fear their children growing up in the Harehills area and do not want to live there due to the amount of gang crime, domestic violence, litter and alcohol abuse.
- The number of sales from counterfeit products and illegal sales has increased from 2022/23 to 2023/24 and it is considered that this is also underrepresented due to fear of reporting.
- Selling alcohol to street-drinkers does not help them overcome problems they are experiencing.

- Access to alcohol at a young stage in a person's life opens young people up to dependency at an early stage in their life and can cause issues later in life.
- The premises falls within the Cumulative Impact Assessment (CIA) area, and the premises is undermining their responsibility as a premises licence holder and poses a risk to the local community.
- The area doesn't need another off-licence selling illicit goods to the community, and it is considered that the licence holder is not responsible. The Committee were therefore asked to consider revoking the licence.

Responding to questions from Sub-Committee Members, the following was confirmed:

- Public Health are working on a health needs assessment, and residents have been consulted and responses include concerns regarding their children growing up in the area and how it can have an impact on them. Parents as well as schools are worried.
- Street drinking continues in this area, and it has been witnessed in the last 2 weeks by local ward councillors.
- The sale of single cans does not help towards the outreach work undertaken to help street drinkers overcome issues they are facing.

Councillor Arif, Local Ward Councillor, informed the Sub-Committee and provided the following information:

- The premises is in the heart of Harehills and is right next to the Compton Centre which is approximately 290 yards away. St James's University Hospital is also 3 miles away from the premises.
- Next to Harehills Labour Club, a high number of cans are littered next to the premises, and they have had to raise funding to erect a fence. Measures are being taken to try and tackle street drinking that exists in Harehills.
- Councillors have supported outreach work through Touchstone in the area to ensure individuals are receiving the help they need.
- Businesses are not surviving in the area and are moving elsewhere due to the perception of street drinking and the on-going issues in Harehills.
- Children and parents do not want to walk past intimidating behaviours and they are having to do so every day. It is not considered fair to the residents having to put up with this.
- It is suspicious that almost instantly new owners have been sought for the licence transfer, and the previous owner is still financially responsible for the utilities. There are concerns that the previous owner and current, are linked and this sets a precedent for other premises coming forth for a review to use the same tactic.
- There is selective licensing areas and a CIA for a reason.

Mr Rees-Gay informed the Sub-Committee, providing them with the following information:

- The transfer of the licence and variation to the Designated Premises Supervisor took place on 11th Jan 2024 and took place with immediate effect. Compton Stores Ltd. held the premises licence.

- Mr Saleh wanted some return for his shop, as he knew he could not operate anymore due to the allegations. The initial buyer dropped out of the sale and that is when Mr Naamani came on board, and Mr Redini.
- The sale agreement has been completed by Beachwood Solicitors Ltd., and the agenda pack includes a copy of the deed of surrender.
- The new operator has operated for over 3 years, working in a barber shop, and then for 9 months working in a takeaway. This will be his first convenience store, and this is why he has brought along his friend as Designated Premises Supervisor to be able to assist him.
- Mr Naamani has undertaken a personal licence course and as soon as he has enough experience in the premises, he intends to become the DPS for his own premises.
- Relevant training has been carried out by an external operator on 15th January 2024.
- Further conditions are being offered and are as follows:
 - *Said individuals will have nothing to do with the management or operation of the premises, nor will they work or be employed at the premises.*
 - *No alcohol or tobacco products will be purchased from unknown sources such as itinerant traders “cold callers” at premises. A notice shall be displayed close to the entrance to the premises (either on a shop window or door) which clearly indicates that alcohol and tobacco products will not be purchased from “cold callers” visiting the premises.*
 - *All alcohol and tobacco products will be purchased from the bona fide wholesaler. All such purchases will be accompanied with official invoices which will allow full traceability through the supply chain alongside any applicable AWRS scheme number for that supplier. Invoices will be retained on the premises for a minimum of six months and will be provided on request to a police officer authorised officer of Leeds City Council.*
- The police raised concern regarding the sale of single cans, however, the condition presented only related to the sale of super strength cans of 6.5 or greater and cider no greater than 7.8. This doesn't stop the sale of single cans.
- The police were given 14 days to respond to the transfer of the licence and variation of the DPS. No objections were put in.
- The enforcement visit on 21st January 2024, found no breaches and no offences.
- The electricity being by-passed has nothing to do with the current licence holder. Mr Naamani was not aware of the process in getting his account set up with British Gas and transferred monies to Mr Saleh to pay the utility bill. Mr Naamani is waiting for his business account to be set up but is waiting for an issue to be resolved.
- The premises is not associated with street drinkers and Mr Naamani has refused street drinkers previously.
- Mr Naamani has undertaken relevant training and taken on an experienced DPS to help him, until he is able to get his personal licence.
- There is a raft of bespoke conditions proposed to ensure the issues that happened previously do not happen again.
- No illegal goods were found on the latest enforcement visit to the premises.

Responding to questions from the Sub-Committee, the following was confirmed:

- Further to a question regarding businesses being profitable if there are some not paying tax. The police confirmed that proper reputable businesses are needed in the area and there have been a few operations to clean up Harehills.
- The licence holder was not aware of any requests to seal up the concealments, otherwise this would have been completed.
- The police proposed a marketing condition and single / multi-can pack condition on 26th January 2024. It was confirmed that the sale of the can was sold to a neighbour and not a street drinker. Mr Naamani understands not to sell to street drinkers and the neighbour came into the premises twice at different times for a single can, and she took them home to consume.
- Mr Naamani has applied for a business account and efforts have been made to provide all the relevant documentation needed to open the account. After a number of visits, Mr Naamani is waiting to speak to a department regarding a flag on his account and once this is cleared up, he can start to use his business account.
- Mr Saleh has been paying the British Gas account until Mr Naamani can get his account sorted.
- There is no relationship between Mr Naamani and Mr Saleh other than that the business was sold to Mr Naamani. Mr Saleh agreed to do Mr Naamani a favour by paying for the bill until he can get sorted.
- Mr Naamani explained he wanted to buy the business for himself, so that he could be his own boss and was previously only able to take on part-time jobs.
- Mr Naamani is aware of the street drinkers and who isn't. He has knowledge regarding this and has received relevant training. Street drinkers have been abusive towards Mr Naamani for him refusing service and sales. Mr Naamani explained he does not feel safe on an evening.
- Mr Naamani explained this was the only business he could afford, irrespective of the review.
- The DPS has been around to help Mr Naamani until he can obtain his personal licence.
- Mr Saleh has been removed from the business rates and Mr Naamani has been added.
- There is nobody else helping run the premises.
- It is unknown whether there are debts associated with the premises, and they have not been included in the purchase agreement.
- The police believe that the financial arrangements between the licence holder and previous owner, are 'strange' and risky behaviour.
- Further to a comment regarding the sale of the business it was confirmed that Mr Rees-Gay did not have anything to do with the commercial side of business. There is a formal paper for the surrender of the lease, and a sale agreement.

In summarising, West Yorkshire Police added that there seems to be a lack of understanding regarding the issues currently on-going in Harehills. The category of a street drinker can range from homeless people to alcohol dependent people, and it is far more complex. The premises has been associated with selling large amounts of illicit goods using sophisticated concealments. It seems to be an odd occurrence that the previous owner didn't close his account before the new lease was signed, and

similarly an odd mistake from the new licence holder that he did not set up his account. The police, therefore, on balance, requested that the licence be revoked.

In summarising, Mr Rees-Gay explained that the premises is now operating in the way that it should and Mr Naamani has experience in forward facing outlets, with no previous offences. Mr Naamani has obtained a personal licence holder's qualification. No offences or breaches were found on the day of the enforcement visit and new conditions have been proposed. Mr Rees-Gay asked that the licence not be revoked, and the implementation of additional conditions be considered.

At this point in the meeting, the Sub-Committee went into private session to deliberate on the application. Upon returning, the Sub-Committee asked parties to present their thoughts on imposing two additional conditions. Those being:

- 1) To add to the wording of the suggested condition excluding certain persons from any involvement in the premises... "and neither shall any of the said persons received any financial benefit from the premises or otherwise, save for the balance of the purchase of the business."
- 2) To add a condition that there will be no internal or external window displays, posters, advertisements or other imagery depicting or referring to alcohol and neither shall any such displays, posters, advertisements, or other imagery be placed on the shop frontage or in front of the premises.

Comments received from the local ward councillor and police:

- Removal of advertisement from the premises would not stop people coming to the premises as it is widely known for street drinkers.
- Street drinkers hang around from morning until late, the removal of high strength alcohol wouldn't make a difference.

The Sub-Committee went back into private session to deliberate on the application and upon returning, it was:

RESOLVED – To not revoke the premises licence but to modify the conditions on the premises licence to include those suggested by the premises licence holder, and modified further to include:

- To add to the wording of the suggested condition excluding certain persons from any involvement in the premises... "and neither shall any of the said persons received any financial benefit from the premises or otherwise, save for the balance of the purchase of the business."
- Adding a condition that there will be no internal or external window displays, posters, advertisements or other imagery depicting or referring to alcohol and neither shall any such displays, posters, advertisements, or other imagery be placed on the shop frontage or in front of the premises.

The hearing ended at 14:00.