

Licensing Sub-Committee

Tuesday, 7th November, 2023

PRESENT: Councillor L Farley in the Chair

Councillors A Hutchison and D Seary

1 Election of the Chair

RESOLVED – That Councillor L Farley be elected as Chair throughout 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 in relation to Agenda Item 8 – Review of the Premises Licence for HGS-UK Ltd (Harehills Maxi Foods), 268 – 270 Harehills Lane, Harehills, LS9 7BD was published on the council website and distributed to Members prior to the meeting. Minute No. 8 refers.

5 Declaration of Interests

No interests were raised.

6 Certification of Films – Sha Ma Te, Wo Ai Ni (We Were Smart)(2019).

The report of the Chief Officer (Elections and Regulatory) presented an application for the certification of a film to be shown at Wharf Chambers, 23-25 Wharf Street, Leeds, LS2 7EQ on Wednesday, 22nd November 2023. The applicant requests an 18 certificate.

The Licensing Officer presented the application.

RESOLVED – To grant an 18 certification.

7 Application for the Grant of a Premises Licence for Carpatica 2 Ltd, 24 - 26 Tong Road, Farnley, Leeds, LS12 1HX

The report of the Chief Officer (Elections and Regulatory) presented an application for the grant of a premises licence made by Carpatica 2 Ltd, for 24-26 Tong Road, Farnley, Leeds, LS12 1HX, trading as a grocery store.

The following were in attendance for this item:

- Ian Rushton – Applicant's Representative
- Rand Hussain – Proposed Designated Premises Supervisor (DPS)
- Rebaz Akram – Director and Applicant

The applicant has applied to sell alcohol for consumption off the premises every day from 07:00 – 00:00.

Representations have been received from responsible authorities, West Yorkshire Police and Environmental Health. The operating schedule has been amended to include measures agreed with West Yorkshire Police and therefore they have withdrawn their representation. Additionally, measures have been agreed with Environmental Health, in that the applicant has agreed to amend their terms of hours to 08:00 – 23:00 Sunday to Thursday and 08:00 – 00:00 Fridays and Saturdays. Therefore, Environmental Health have withdrawn their representation.

The application has also attracted representation from members of the public opposing the application on the grounds of crime and disorder and public nuisance.

The Legal Officer outlined the procedure for the hearing and the Licensing Officer presented the application. The following information was highlighted:

- The measures agreed with West Yorkshire Police include conditions relating to CCTV, training records and an incident report register.
- The representation from Environmental Health touch on conditions relating to the opening hours, noise, and litter. Agreements have since been reached and therefore Environmental Health have withdrawn their representation.
- The representations from members of the public relate to allegations of illicit alcohol and tobacco being sold by the director. Further to this, checks have been carried out by Trading Standards and they have not raised any concerns. Trading Standards and West Yorkshire Police do not raise any additional concern regarding such allegations.

The applicant's representative informed the Sub-Committee of the following:

- The applicant intends to run the premises as a small grocery store focusing on European goods, soft drinks and snacks and a place to serve the local community.
- The business is family run and they have a 10 year lease on the building. Therefore, plan on being around for a long time.
- Alcohol sales will allow the business to expand and provide an all-round convenience store for the local community.
- The proposed DPS is waiting on her personal licence.
- Extra staff will be hired on a part-time basis and the premises will be fully staffed on weekends.
- There is a CCTV system already in place at the premises. 6 cameras are situated inside the premises, with 3 cameras situated outside. Recordings will be made available to responsible authorities upon request.
- Challenge 25 will be enforced.
- Staff will be regularly trained as part of the condition offer.
- It is considered that the conditions offered are comprehensive and promote the licensing objectives.

- Responsible authorities are not in attendance opposing the application. Trading Standards carried out checks in regard to the alleged accusations and they are satisfied.

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

- The premises will carry out challenge 25 and ask anybody who appears under that age to provide proof of their age.
- Footage will be retained for a minimum of 31 days.

In summarising, the applicant's representative explained that all staff will be trained in promoting the licensing objectives and understanding the various conditions as per the licence. Responsible authorities have withdrawn their representations and members were asked to disregard applying weight on the alleged accusations.

At this point in the meeting, the Sub-Committee moved into private session to deliberate on the application. In reaching its decision, members considered the report of the Chief Officer of Elections and Regulatory, including the written representations opposing the application. The Sub Committee also had regard to the relevant provisions of the Licensing Act 2003, the Guidance issued under Section 182 of the Act and Leeds City Council's Statement of Licensing Policy. The Sub Committee also considered the oral representations, contributions, and explanations from the applicant and their representative.

RESOLVED – To grant the licence as applied for.

8 Review of the Premises Licence for HGS-UK Ltd (Harehills Maxi Foods), 268 - 270 Harehills Lane, Harehills, Leeds, LS9 7BD

The report of the Chief Officer (Elections and Regulatory) informed the Sub-Committee that West Yorkshire Police have served on the Licensing Authority an application under Section 51 of the Licensing Act 2003 for a review of the premises licence in respect of HGS-UK Ltd, 268-270 Harehills Lane, Harehills, Leeds, LS9 7BD.

The following were in attendance for this item:

- PC Andy Clifford – West Yorkshire Police
- Jason Bethell – Trading Standards
- Carmel Brennan – Entertainment Licensing
- Chris Rees-Gay – Woods Whur, Licence Holder's Representative
- Dylan Safy – Director of HGS-UK Ltd, Licence Holder
- Laura Russell Sofi – Premises Supervisor
- Henryka Pomoranska – Premises Manager
- Hadi Pour – Shop Worker
- Darrell Butterworth – Expert Witness, Independent Licensing Consultant

The review application was served on the Licensing Authority on 19 September 2023. The Licensing Authority is now under a duty to review the

premises licence held by these premises. The application is made on the grounds of the prevention of crime and disorder and public safety.

Supplementary information was published on the council's website and distributed to Committee Members prior to the meeting. Documents included information provided by the licence holder and Entertainment Licensing. Further to this, information was submitted by the licence holder's representative before the meeting in relation to details of a separate review for Baba Jaga. Members were provided with copies of this information, as were the other parties in attendance.

The Legal Adviser outlined the procedure for the hearing and the Licensing Officer provided an overview of the application. Sub-Committee Members were informed that a separate application has been lodged in relation to the change in DPS. West Yorkshire Police has objected to this, and therefore, it will be considered at a Licensing Sub-Committee meeting on 5th December 2023.

PC Andy Clifford informed the Sub-Committee and provided them with the following information:

- There has been a recent joint operation in Harehills to target shops selling illicit tobacco and counterfeit products. It was confirmed that Maxi Foods had been targeted via police intelligence.
- A white van was found parked behind the premises, full of illicit cigarettes. It is believed that the premises used the van to sell illegal products, as it was within close proximity to the rear entrance. It is not considered that the van belonged to another shop.
- Information relating to Baba Jaga is not relevant and is a separate premises with different operators.
- Test purchasing was carried out twice in relation to the premises. Maxi Foods failed the first test purchase and passed the second. West Yorkshire Police use underage children to carry out test purchasing, and speculated that this might not be the first time Maxi Foods has sold alcohol to underage people.
- West Yorkshire Police do not believe the applicant to be an experienced operator.

In calling a witness, Jason Bethell, Trading Standards, informed the Sub-Committee that he had attended the premises as part of the joint operation in Harehills and found that the rear door of the premises was wide open and found that the side door of the white van in question, was un-locked with a large number of illicit cigarettes inside. A colleague in Trading Standards witnessed a male on the pavement to the rear of the shop, drop some boxes and run away. Photographs of the scene were included in the agenda pack. Trading Standards remained with the white van until the illegal products were seized.

Carmel Brennand, Entertainment Licensing informed the Sub-Committee, providing the following information:

- Carmel has worked as a Senior Liaison Officer since 2006 and has responsibility for the Harehills area.

- Mr Dylan Safy has been the person with significant control since April 2019.
- An application for a new premises licence for Maxi Foods, 22 Harehills Lane was heard before the Sub-Committee in May 2023 and ultimately rejected by the Sub-Committee at that time, considering a number of objections and the Cumulative Impact Policy.
- The only link with Maxi Food and Wine is that the previous DPS for Maxi Foods is also the DPS for Maxi Food and Wine.
- It is considered that a number of multi-agency operations have found premises storing goods in vehicles and they can argue that the vehicle and products do not belong to them to negate any formal action being taken against them.
- A visit was made to Maxi Foods and Gihan Stores on 1st November 2023 further to the kitchen rolls pictured in the agenda pack relating to the contents found in the white van.
- The failure of the test purchase is an offence under Section 146 and 147 of the Licensing Act 2003 and it is considered that the premises do not operate in accordance with the current conditions on their premises licence, particularly in terms of staff training and Challenge 25. It is believed that whilst Maxi Foods passed the test purchase carried out on 25th September 2023, this did not negate the offence committed on 13th September 2023.
- There has also been an issue with CCTV footage not being kept for 31 days, in breach of a condition of the licence which is also an offence under Section 136 of the Licensing Act 2003. Whilst it was confirmed that this issue was dealt with 2 days following the visit, and a bigger hard drive being installed, CCTV footage was still only recording for 30 days.
- A premises must comply with all of the conditions as stated on their premises licence, and not doing so is committing an offence.
- The Cleaner Neighbourhoods Team has previously acted against Mr Safy in regard to waste and Mr Safy pleaded guilty in relation to a number of offences and was ultimately fined. It is considered that this demonstrates a poor operator and is not respectful of the local community and neighbours.
- It is not considered that an amendment to the conditions will be enforced, as the current conditions are being breached by the operator.
- There is already an application in regarding the change in DPS and it is believed there is no benefit in removing the current DPS as Mr Safy is responsible overall for the premises and responsible for the offences already committed.
- Ms Brennand considers that the most appropriate measure moving forward is to revoke the licence.

The applicant's representative provided the following information:

- A correction to page 60 of the supplementary information, paragraph 21 in relation to the prosecution should read 'June 2021'.
- The operator operated Maxi Foods and Maxi Food and Wine in Harehills since 2017 and both premises hold licences to sell alcohol in Harehills and in the CIA. Alcohol is sourced from legal providers.
- The operator has undertaken a personal licence course and relevant training.
- Prior to 13th September 2023, the premises has never failed a test purchase before.

- Illicit items were not found inside the premises and the rear door of the premises was not open at the time of the visit on 16th June 2023. There is also no evidence to relate the white van to Maxi Foods and the review took place 3 months after the initial operation. The premises was searched by the police, and no seizure notice was issued. Additionally, no member of staff was interviewed by the police after the white van with illicit goods was found.
- Staff did not recognise the van and believed it related to Gihan Grocery Stores, a couple of doors up from the premises.
- Further to a review for Baba Jaga 2, illicit products were found inside that premises and further information submitted compared Baba Jaga 2 with Maxi Foods. No illicit products were found inside of Maxi Foods.
- Following the failure of the test purchase, staff training was undertaken on 25th October 2023. 1 failure of a test purchase does not usually warrant a review of the premises licence. The applicant also reached out to responsible authorities regarding additional conditions and further measures.
- Maxi Foods applied to remove the previous DPS and for the owner to become the DPS to have a more 'hands on approach'. An objection from the police has been received in relation to this.
- The offence committed in relation to waste, does not relate to the review of the premises and the operator has taken a number of steps since this to demonstrate he is a positive operator.
- The applicant is proposing stricter conditions regarding CCTV retention and training in relation to underage sales. The applicant has already enforced signage in relation to Challenge 25. The applicant also proposes the removal of unenforceable conditions regarding the promotion of sale of alcohol and CCTV.

In calling a witness, Mr Butterworth informed the Sub-Committee that the premises has never sold tobacco products and receipts of all alcohol sold in the premises were provided to relevant authorities. There is no evidence to back up the possession of contraband goods and evidence does not relate to anybody that works for Maxi Foods. CCTV would have shown the person who parked the van, and who it belonged to, but responsible authorities did not request this footage.

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

- There is CCTV at Maxi Foods that shows the rear of the premises.
- Trading Standards do not have the capabilities to identify fingerprints and further investigations relating to the white van would not have been possible due to it being un-taxed, un-registered and un-insured.
- Trading Standards had a conversation with a neighbouring premises who told them the van had not been moved for over 12 months and had not been driven by anybody.
- In responding to the van being a 'coincidence' with how it was parked, the police confirmed that this was unlikely due to the positioning of the van and the way it was parked so close to the rear door of the premises.
- Harehills has an issue with illicit tobacco and goods being sold.

- Prior intelligence revealed that there was a white van parked to the rear of Maxi Foods, suggesting that illicit goods were being stored.
- Gihan Stores is not a licenced premises and the way they stored illicit goods was different to how the goods were found in the white van. There doesn't appear to be any correlation in relation to this. It was also confirmed that the type of illicit goods seized are typically a dozen of foreign brands and the cheapest ones in Europe, with approximately 20 different brands found across a number of premises.
- Staff at Maxi Foods enter the premises to the front and were not aware of a white van being parked to the rear of the premises. Goods are delivered to the front of the premises and staff only use the rear door to dispose of rubbish.
- Further to the issue associated with the underage sale, an application was put forward for Mr Safy to become the DPS. The applicant was not expecting an objection from the police.
- The DPS at the time of the failed test purchase is also the DPS at Maxi Food and Wine and will remain the DPS there. The DPS was not present at the time of the failed test purchase. It was confirmed that Maxi Food and Wine is a much smaller premises.
- Ms Brennand confirmed that further to her visit to Maxi Foods and Gihan Stores on 1st November 2023, and further to the picture in the agenda pack regarding contents of the white van, Maxi Foods stocked red and yellow packaged toilet roll, whereas Gihan Stores did not.
- Staff at Maxi Foods confirmed they did not witness anybody going in and out of the van, as they do not monitor the rear of the premises and there are CCTV operators to check the cameras for any issues.

In summarising, PC Andy Clifford was of the opinion that the premises is not run by conscientious operators and doubts how the premises is run. The premises failed their first test purchase, and it is believed that the bins to the rear of the premises created a barrier to the white van. The police believe the only remedial action to take is to revoke the licence.

In summarising, the applicant's representative raised confusion because CCTV was never requested by the police at the premises and any receipts were provided in relation to purchases of alcohol. It was reiterated that the white van is not related to Maxi Foods and staff were never interviewed. CCTV has been resolved and is now recording for 31 days and finally, more robust conditions have been offered as well as the suggestion to remove vague conditions from the licence.

RESOLVED – To modify the conditions in accordance with the proposals made by the licence holder's legal representative, as set out on pages 61 and 62 of the supplementary information pack.