

## **Licensing Sub-Committee**

**Tuesday, 30th January, 2024**

**PRESENT:** Councillor R Downes in the Chair

Councillors S Hamilton and T Hinchcliffe

### **1 Election of the Chair**

**RESOLVED** – To elect Councillor Ryk Downes to the Chair for the duration of the meeting.

### **2 Appeals Against Refusal of Inspection of Documents**

There were no appeals against the refusal of inspection of documents.

### **3 Exempt Information - Possible Exclusion of the Press and Public**

There were no exempt items.

### **4 Late Items**

There were no late items.

### **5 Declaration of Interests**

Cllr Ryk Downes declared a non-pecuniary interest in relation to Agenda Item 7 – Review of the Premises Licence for N.A News Limited (BK Store), 78 Harehills Road, Harehills, Leeds, LS8 5NU.

It was noted that Cllr Downes was acquainted with one of the Directors of Whiterose Blackmans Solicitors. However, he had not spoken to this person for more than 6 months.

### **6 Certification of a Film – Chess of the Wind**

The report of the Chief Officer Elections and Regulatory advised the Licensing Sub Committee Members of an application for the certification of a film titled, Chess of the Wind, to be screened on the 4th February 2024, at Hyde Park Picture House.

Democracy Reporter Don Mort was present at the meeting.

It was noted that with no advance screener being made available for Members to view the request was made for the film to be awarded an 18 rating, subject to a declaration provided by the distributor.

The distributor had provided a report which included the synopsis, further details on the screening and the written declaration confirming that the film does not contain any content which would more likely than not, render it liable to be classified as R18. A copy of this was appended to the report at Appendix A.

A link to the current BBFC Classification Guidelines was part of the agenda.

Members had read the report, the declaration, and the synopsis. It was the view of the Sub-Committee that the Hyde Park Picture House was a responsible and reputable operator, and the Sub-Committee could see no issues.

**RESOLVED** – To grant an 18 certification for the film Chess of the Wind as requested.

## **7 Review of the Premises Licence for N.A News Limited (BK Store), 78 Harehills Road, Harehills, Leeds, LS8 5NU**

The report of the Chief Officer Elections and Regulatory informed the Members of the Licensing Sub Committee of an application for a licence review made by West Yorkshire Police in respect of N.A News Limited (BK Store), 78 Harehills Road, Harehills, Leeds, LS8 5NU78. The application was made on the grounds of the prevention of crime and disorder, public safety and the protection of children from harm.

In attendance for this meeting were:

- PC Neil Haywood, West Yorkshire Police – Review Applicant
- Carmel Brennand, Entertainment Licensing – Representation in support of the review application
- Councillor Asghar Ali, Local Ward Member – Representation in support of the review application
- Emilia Slezak, Public Health – Acting as a witness on behalf of the Local Ward Members
- Miss Guildford – St Paul’s Chambers (Counsel for the Licence Holder)
- Aamir Masood – Licence Holder and DPS
- Noreen Yasin – Wife of the Licence Holder – Observing
- Robina Haq – Independent Translator for the Licence Holder
- Don Mort - Reporter

The Legal Officer outlined the procedure for the hearing.

The Licensing Officer provided the following information:

- Supplementary information on behalf of the Licence Holder had been submitted after the publication of the agenda and was now included with the papers.
- Background information had been provided for the Sub-Committee at paragraph 2 of the submitted report.
- The application from West Yorkshire Police was appended to the report at Appendix A and included additional information provided at the time of submission. It included police and HMRC officer statements and photographic evidence.
- Further to the submission of the review application, West Yorkshire Police had served additional information in support of their application. This was attached at Appendix B and comprised of two police officer statements and photographic evidence documenting the seizure of items believed to be smuggled and suspected stolen goods.

- Mr Aamir Masood is the premises licence holder and Designated Premises Supervisor (DPS). A copy of the premises licence was attached at Appendix C of the report.
- The premises licence permitted the following:
- Sale by retail of alcohol
  - Monday to Saturday 06:00 -23:00, Sunday 07:00 -23:00
- Opening Hours
  - Monday to Saturday 06:00 -23:00, Sunday 07:00 -23:00
- Non-Standard Timings
  - Christmas Eve and New Years Eve 06:00 - 00:00 hours
- A map identifying the location of the premises was attached at Appendix D.
- Representations in support of the review application sought by West Yorkshire Police had been received from a Senior Liaison and Enforcement Officer, on behalf of Entertainment Licensing, West Yorkshire Trading Standards, and the Local Ward Councillors. Redacted copies of the representations were attached at Appendix E of the submitted report and original copies had been circulated to Licensing Sub-Committee Members in advance of the hearing.
- A copy of guidance issued under Section 182 of the Act (Statutory Guidance) was attached at Appendix F.
- The main issues for the review application were set out at Paragraph 6 of the submitted report and included:
  - The premises was found to have large amounts of non-duty paid alcohol in the store for sale to members of the public.
  - Photographic evidence of illicit electronic vape devices.
  - A test purchase had been carried out and a 16 year old child had been sold alcohol.
  - West Yorkshire Police believed that the premises were not promoting the licensing objectives, being involved in serious criminality and failing to protect children from harm.

West Yorkshire Police provided the following information:

- On the 29<sup>th</sup> November 2023 an application was submitted to review the premises licence at BK News, 78 Harehills Road, Leeds. It was noted that the application was made on the grounds that BK News were not promoting the licensing objectives, being involved in serious criminality, and failing to protect children from harm.
- The Sub-Committee were informed that on the 30<sup>th</sup> August, a joint operation had taken place in Harehills aimed at off licences selling illicit tobacco and non-duty paid alcohol. The operation had been in collaboration with HRMC, Trading Standards, West Yorkshire Police and Leeds City Council Licensing.
- Harehills has a cumulative impact policy due to the high number of incidents because of alcohol. The area is viewed as one of the worst in the country, with high numbers of hospital stays and ambulance call outs related to alcohol.
- This was a serious breach of the licence and in the professional opinion of PC Haywood was part of organised criminality with no compliance of the licensing objectives.

- The community was suffering due to this behaviour, and it should not be tolerated.
- During a joint strategy between HMRC, Immigration Enforcement, Entertainment Licensing and West Yorkshire Police a large amount of alcohol and tobacco had been seized which was non-duty paid. It was noted that some had counterfeit duty attached. During this spot check Polish alcohol was also seized and it was noted that Mr Masood had told officers he had purchased this from a person called 'Jessy'. It was the view that Mr Masood should have been more diligent as to who and how he purchased alcohol, as there was no way to ensure that the items were safe to sell or consume.
- A large amount of goods was found in a storeroom which was behind two locked doors, which PC Haywood said was unusual. In the storeroom there was a large amount of goods, including alcohol, electrical items and perfumes marked with retail tails from premises such as Next, H&M and Zara. These were all stored in large shopping bags, so it was assumed that they had been stolen. The Sub-Committee were told that Mr Masood and another man had been arrested, in the witness statement Mr Masood said that he had bought the goods from a man in Doncaster. There was no information provided by Mr Masood that enabled the police to investigate the matter. The man arrested with Mr Masood said that Mr Masood was the only one who was able to go into the storeroom. It was noted that the investigation was ongoing.
- On 25<sup>th</sup> September 2023, a test purchase was undertaken with a 16 year old child. It was noted that the officer observing the test purchase saw no evidence of the child being asked for proof of age and was allowed to leave the store with a bottle of alcohol.
- It was noted that Mr Masood had informed the police that he had customised his pay point system since this had happened, so that only staff he believed had been trained properly in serving alcohol could use the pay point system.

Entertainment Licensing provided the following points in support of the review application:

- The premises had held a licence to sell alcohol since 2005, Mr Masood has been the premises licence holder and DPS since June 2018.
- The Officer explained that in November 2022 she had attended an inspection at BK stores along with officers from Immigration Enforcement, who had spoken with staff members. It was noted that Mr Masood had been at the premises during the inspection. Members were advised that Part A and B of the premises licence had been in order and the Check 21 posters were displayed behind the counter. The CCTV system showed 8 cameras on the system, whilst checking it was noted that the monitor was one hour out, which Mr Masood rectified straight away. Whilst inspecting the CCTV footage it was noted that the system was only recording 18 days and not the required 31 days. The Officer explained to Mr Masood that whenever a bottle of alcohol was sold, and the CCTV was not in operation him or his staff were committing an offence under Section 136 of the Licensing Act 2003. Mr Masood had responded to say that a new system had been fitted on 23<sup>rd</sup> October. The officer said she would return after the 23<sup>rd</sup> November to check the CCTV system. On this visit the basement was checked and crates of Polish lager were found which did not list ingredients in English. On checking fridges, it

was found that there was lager in them that was the same and Mr Masood was advised that he should remove them.

- Officers from Immigration Enforcement had been speaking to staff and 2 members of staff were arrested for working without the right to do so.
- On 30<sup>th</sup> November 2022, the officer had again visited the premises along with a Food Officer from Trading Standards. On this visit The Food Officer found substantial amounts of refrigerated food past its use by date, including meat and sandwiches, some dating back to August and September. The member of staff on duty was advised that lager in the fridges which did list allergens should be removed. It was noted that Mr Masood had been fined £2,000 plus court costs under the Food Safety and Hygiene (England) Regulations 2013.
- On the 30<sup>th</sup> August 2023 the Officer explained how she was part of a multi-agency operation visiting shops in Harehills. It was noted that the CCTV was operating and recording the required 31 days. HMRC and Trading Standards were on site, HMRC seized a large number of wines, spirits and beers that Mr Masood could not provide the invoices for, and he said he had bought the stock from a white van man. Trading Standards seized illegal vapes.
- It was the view of the officer that Mr Masood did not take his responsibility as a premises licence holder and DPS seriously, as he continued to fail to comply with a variety of legislation, and seemed to be unconcerned on the impact his business was having on the immediate community. He had failed to uphold the licensing objectives.

Responding to questions from the Sub-Committee the following information was provided:

- Electronic vape devices should not be larger in size than 2ml equal to 600 puffs. More than this is illegal. It was noted that 7,000 illicit vapes had been seized and this was only from one visit.
- The sale of alcohol to a child was in breach of Condition 13 - requiring proof of age and identification to be checked.
- It was confirmed that Mr Masood has had his name on the premises licence since June 2018. He has a personal licence for which he has had to pass an exam.
- The premises had been visited a number of times and Mr Masood and his wife had been spoken to in relation to anti-social behaviour of street drinkers and the CCTV system.
- Officers had seen members of staff other than Mr Masood using the till whilst visiting the premises.
- Mr Masood had admitted to HMRC that he had bought alcohol from a man in a van. Mr Masood had been of the view that this was a minor infraction.

Cllr Ali and his witness - Officer from Public Health.

- The Officer explained there was a number of health inequalities in the Harehills area and provided statistics on these for the Sub-Committee.
- Harehills has a number of looked after children, street drinkers, young people and there is high anti-social behaviour in this area.
- It was the view that issues such as street drinking and the sale of illicit goods seen by young children can have an impact on later life as it normalises the situation for them. It was the professional judgement of the officer that such

behaviour in the area caused harm to the children living there and who were seeing this daily.

- It was noted that whilst working in the area and speaking to residents, one resident had said that she no longer wished to live in the area due to the high crime, drinking and litter.
- Looked after children and young people often turn to smoking or alcohol and there is a readily available supply of illicit tobacco, vapes and alcohol at cheap prices which is detrimental to the health and mental wellbeing of the young people.
- Cllr Ali told the Sub-Committee that he had been present on the day of the raids and was amazed at the sheer volume of goods stored at BK Stores.
- He said that Harehills was a fragile community. A high school and a primary school are located close to the premises, and he was of the view that the premises targeted children who were able to buy alcohol from as little as 60p a can and cigarettes or vapes from £3.00, whereas a bottle of water costs £1.50.
- Mr Masood says he wants to be part of the community, but this community is vulnerable, and the behaviour of Mr Masood was having a detrimental effect on families living nearby. Although the agencies had visited the premises on numerous occasions, Mr Masood had not put things right. It was the view of Cllr Ali that Mr Masood was not contributing to the community in a positive way.
- Cllr Ali said that due to the actions of Mr Masood he was depriving the community by not paying the duty on alcohol or tobacco, as the money from the duty was not going towards health care in our hospitals or to the city. It was Cllr Ali's view that Mr Masood was only looking out for his own interests.
- The Public Health Officer said that the sale of illicit goods could influence health care, as it was difficult to know what was in the goods should someone have an adverse reaction to them, which made it difficult for carers to know how to treat them.
- Vapes were attractive to children and young people as they are brightly coloured and come in flavours such as Skittles and Tutti Fruity. To sell illicit vapes at cheap prices to underage people was totally irresponsible.

In response to a question from Members the following information was provided:

- The two people arrested by Immigration Enforcement for not having the right to work had been served with a civil penalty notice. It was believed that 1 person who had been arrested had since applied to stay in the country and work here. No further information was available.

Mr Masood the BK Stores premises licence holder and DPS aided by an interpreter and Counsel for Mr Masood provided the following information:

- The Sub-Committee were advised that Mr Masood was appalled and upset by what had happened. It had affected his mental and physical health. He enjoys being a shopkeeper and feels a sense of sanctuary and community since taking on the licence in 2018. Mr Masood has only in the last 2 years taken on a more managerial role, with responsibility for training new employees and buying stock.

- Since the 2 incidents last year Mr Masood had made changes. It was the view of Counsel that Cllr Ali had been dangerously misleading in his submission to the Sub-Committee.
- The Sub-Committee were informed that Mr Masood is community spirited and makes charitable donations.
- There was no evidence in relation to selling vapes to underage children, and he was not targeting children. Counsel said that vapes are being reviewed by Government and may not be available for sale.
- It was recognised that there had been serious breaches of the licence, but Mr Masood had paid £24,000 in fines for the offences.
- Mr Masood had provided evidence to show that he purchased goods from wholesalers and copies of the receipts were presented as supplementary information.
- In relation to the Polish lager found in the premises, Mr Masood had seen a gap in the market and when offered some by a seller who came into the store, he had bought it.
- It was noted that in 2018 the premises had received a letter of commendation for not selling to minors and this was proudly hung up in the store. Challenge 25 signs are hung on all doors within the premises.
- Mr Masood had not been in the store when the test purchase by a 16 year old child had taken place and he was appalled that this had happened. It had been a new member of staff who had been on duty. Since the incident Mr Masood had changed the till system so that it could not be accessed until new staff have received the proper training.
- Mr Masood had risen to the challenge to make changes and had ceased to purchase goods from local sellers, only wholesalers.
- Attention was drawn to the supplementary information provide to the Sub-Committee which included representations from customers who use the premises. Members were asked to note that some of the representations were from nursing staff employed at St James' Hospital.
- If the licence was revoked the premises would cease to trade as it would not be sustainable without the sale of alcohol. Therefore, the charitable donations would also cease, and people employed at BK Stores would lose their jobs. It was the suggestion that the licence be suspended until staff had undergone training.
- It was noted there had been no further issues since the spot checks.
- In relation to the goods in the storeroom, it was the view of Counsel that this was not unusual, as not aware of what is assumed to be unusual. The goods were not in the store for sale, and there was no legitimate way to tell if the goods were for Mr Masood's personal use.
- This is an area of deprivation, and the store is used by customers to top up on electric and gas tokens.
- Members were advised that Mr Masood had limited English and therefore been unable to converse properly with the police during his interview. Mr Masood had made signs to change and was deeply upset by what had happened.

Members were of the view that they could not accept that the review by Government would change the sale of vapes, as the review had not been conducted yet.

In response to questions from the Sub-Committee Members were provided with the following:

- During police interview Mr Masood had been provided with access to an interpreter.
- Counsel was of the view that the area of Harehills had a higher population of young people and there was no evidence that Mr Masood was targeting young people by selling cheap vapes to them. There was also no evidence that Mr Masood was selling vapes cheaper than other premises.
- On the day of the test purchase, Mr Masood had not been on duty. The member of staff who sold the alcohol had only been employed two days. It is usual for staff to use Challenge 25 when selling alcohol. The Member of staff had been dismissed the following day.
- Mr Masood and his staff check proof of age before the sale of age restricted items.
- In relation to information supplied by Mr Masood it was noted that the photographic evidence supplied showing charitable donations was worked out in pounds and changed to rupees.
- Mr Masood was aware that there was competition with other stores, but he sells different products where he sees a gap in the market.

West Yorkshire Police - summing up.

- The letter of commendation which was referred to by Counsel was sent in 2018 and therefore did not relate to Mr Masood who had only been in charge for the last two years and should therefore not be on display.
- In relation to goods seized by HMRC these were seized as duty had not been paid. The courts were still investigating the products that had been sold by a man named 'Jessy'. The Police were concerned that Mr Masood was buying goods from sellers who came into the shop.
- In relation to goods seized from the storeroom these could be for gifts or for sale in the store. However, it was still uncertain what these goods were for as Mr Masood had failed to divulge any information about them.
- The representations supporting Mr Masood say that it would be damaging to the community to close the shop. However, in the opinion of the police it would be damaging to the community to leave it open as this was not a 'minor infraction'.
- Mr Masood had been totally irresponsible, and it was the view that some of the issues had been deliberate acts of not doing what was required by the Licensing Act.

Counsel – summing up.

- Mr Masood holds a personal licence and is not just in a managerial role. He is aware of his responsibilities.

Members discussions included:

- Not a good track record.
- No responsibility for the goods he is selling, lager with ingredients in different languages, and out of date foods.
- Illicit vapes.



- Not a competent operator
- The adverse impact on the following Licensing Objectives:
  - The Prevention of Crime & Disorder;
  - Public Safety; and
  - The Protection of Children from Harm.

**RESOLVED** – To revoke the premises licence.

## **8 Application to vary a premises licence held by Thornleigh News 25 - 27 Thornleigh Mount, Cross Green, Leeds, LS9 8QW**

The report of the Chief Officer Elections and Regulatory requested Members consideration on an application to vary a premises licence held by Thornleigh News 25 – 27 Thornleigh Mount, Cross Green, Leeds, LS9 8QW.

Don Mort – Democracy Reporter attended for the hearing.

The Legal Officer outlined the procedure for the hearing where the applicant and objectors had not attended. It was noted that Members had received all information and correspondence in relation to the application and any representations that had been made.

The Licensing Officer informed the Sub- Committee that the application initially proposed an increase to the activity Sale by Retail of Alcohol, from 00:00 until 23:59, every day. This would permit the premises to open and trade 24 hours daily. It was then explained that negotiations had taken place between the applicant, their representative and Environmental Protection Team prior to the hearing.

The Environmental Protection Team had suggested measures, including the reduction to the opening and activity hours from 07:00 until 23:00. This had been accepted by the applicant.

The application had attracted representations from two individuals and all three ward councillors. It was noted that all outstanding objectors had been informed of the agreement to reduce the hours. Members were advised that all three ward councillors and one local resident were happy with the revised hours and subsequently contacted the Licensing Authority to withdraw their representations. The Sub-Committee were advised that the applicant's representative had received an email from the outstanding objector who which intimated they were happy with the reduced hours, however written confirmation direct to the Licensing Authority had not been received. The Licensing Officer had a copy of the email which was available for Members information.

The Sub-Committee were of the view that if the applicant was still requesting 24 hours opening and activity, they would have had concerns due to the area in which the premises were located. However, they were happy with the measures proposed by the Environmental Protection Team, and that the applicant had listened to advice and agreed to the reduced hours. It was noted that other premises in the area also had similar operating hours.

**RESOLVED** –To grant the variation to the premises licence as revised for the Sale by Retail of Alcohol and the opening hours to be 07:00 until 23:00.

*The meeting concluded at 12:55*