

Licensing Sub-Committee (Statutory)

Meeting held 9 January 2023

PRESENT: Councillors Jayne Dunn (Chair), Henry Nottage and Vickie Priestley

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1. APOLOGIES FOR ABSENCE

1.1 No apologies for absence were received. Councillor Ann Woolhouse attended the meeting as a reserve Member, but was not required to stay.

2. EXCLUSION OF PUBLIC AND PRESS

2.1 RESOLVED: That the public and press be excluded from the meeting before discussion takes place on item 5 on the agenda (item 4 of these minutes) on the grounds that, if the public and press were present during the transaction of such business, there would be a disclosure to them of exempt information as described in paragraph 7 of Schedule 12A to the Local Government Act 1972, as amended.

3. DECLARATIONS OF INTEREST

3.1 There were no declarations of interest.

4. LICENSING ACT 2003 - OLIVE GROVE SPORTS CLUB, HEELEY BANK ROAD, SHEFFIELD, S2 3GE

4.1 The Chief Licensing Officer submitted a report to consider an application made by South Yorkshire Police, under Section 51 of the Licensing Act 2003, for a summary review of a premises licence in respect of Olive Grove Sports Club, Heeley Bank Road, Sheffield S2 3GE (Ref. No. 03/23).

4.2 Present at the meeting were James Ketteringham and Catherine Jarvis (South Yorkshire Police, Applicants), Chris Grunert (John Gaunt, Solicitors, for the premises), Kerry Naylor (Designated Premises Supervisor), Paul Rodgers (Chairman) and Peter Sutton (Secretary/Treasurer) (Olive Grove Sports Club), Callum Westney (Member of the Club, in support of the application), Jayne Gough (Licensing Policy and Strategy Officer), Emma Rhodes-Evans (Licensing Service), Carol Curtin and Jack Risely Boyt (Legal Services) and John Turner (Democratic Services).

4.3 Jack Risely-Boyt outlined the procedure to be followed during the hearing.

- 4.4 Jayne Gough presented the report, and it was noted that representations had been received from five members of the public, in support of the premises, and from the Licensing Service, in support of the application, and were attached at Appendix "E" to the report. Ms Gough stated that the police had requested an expedited review in respect of the premises, and that had been held, as an informal hearing, on 9th December, 2022, at which it was determined that, in the light of serious crime and disorder, the licence be suspended with immediate effect.
- 4.5 James Ketteringham reported on the reasons for why the police had requested the summary review, indicating that the premises were, in their opinion, associated with serious crime and serious disorder. He referred to each of the incidents, and how the premises management had acted in response, indicating that the police did not have confidence that the current management were competent to be able to manage the venue appropriately. Mr Ketteringham also reported on what the police considered breaches in respect of the premises licence.
- 4.6 Emma Rhodes-Evans made representations on behalf of the Licensing Service.
- 4.7 James Ketteringham and Catherine Jarvis responded to questions raised by Members of the Sub-Committee and Chris Grunert.
- 4.8 Emma Rhodes-Evans responded to questions raised by Chris Grunert.
- 4.9 Chris Grunert put the case on behalf of the premises, referring to each of the incidents and providing an explanation as to how management acting in the circumstances. He also addressed the issue regarding the alleged breaches of the conditions of the premises licence.
- 4.10 Chris Grunert responded to questions raised by Members of the Sub-Committee and Jayne Gough.
- 4.11 James Ketteringham and Chris Grunert summarised their respective cases.
- 4.12 RESOLVED: That the attendees involved in the application be excluded from the meeting before further discussion takes place on the grounds that, in view of nature of the business to be transacted, if those persons were present, there would be a disclosure to them of exempt information as described in paragraph 5 of Schedule 12A to the Local Government Act 1972, as amended.
- 4.13 Carol Curtin reported orally, giving legal advice on various aspects of the application.
- 4.14 At this stage in the proceedings, the meeting was re-opened to the attendees.
- 4.15 RESOLVED: That in the light of the information contained in the report now submitted, the representations now made and the responses to the questions raised, regarding the premises licence in respect of the premises known as Olive Grove Sports Club, Heeley Bank Road, Sheffield, S2 3GE (Ref. No. 03/23), the

Sub-Committee:-

- (a) agrees that the interim steps imposed at the informal meeting of the Sub-Committee held on 9th December, 2022, be lifted; and
- (b) requests that:
 - (i) the following conditions be added to the premises licence:-
 - (A) Vehicular access to the front of the building will be prohibited after 21:00 hours, whenever a private or ticketed event is held at the site, save for disability access;
 - (B) The premises will not accept bookings for private/ticketed events which clash with another booking after 21:00 hours. Two simultaneous private/ticketed events will not be permitted at the venue which concludes after 21:00 hours;
 - (C) Whenever a private/ticketed event is held at the venue which concludes after 21:00 hours, and at which alcohol is supplied or sold, a minimum of two Security Industry Association (SIA) door supervisors will be employed from the scheduled start time of the event until 30 minutes after the scheduled end time or until all guests have dispersed from the grounds;
 - (D) Whenever a private/ticketed event is held at the venue which concludes after 22:00 hours, and at which alcohol is supplied or sold, metal detecting wands shall be utilised by door staff. Door staff shall carry out searches on a risk-assessed basis;
 - (E) A current copy of the Olive Grove Club Rules shall be lodged with Sheffield Licensing Authority and updated within 21 days of any rule changes that may be implemented by the Club;
 - (F) The CCTV system shall cover all external areas surrounding the premises, and all images from the system, both internal and external, shall be instantly recoverable; and
 - (G) There shall only be one private/ticketed event held on the premises after 18:00 hours; and
 - (ii) Licensing Enforcement Officers attend the premises, unannounced, and on at least four occasions in a period of one year, to undertake a full licensing compliance check.

(NOTE: The full reasons for the Sub-Committee's decision will be included in the written Notice of Determination.)

5. LICENSING ACT 2003 - ZABKA MINI MARKET, 712 ATTERCLIFFE ROAD, SHEFFIELD, S9 3RP

- 5.1 The Chief Licensing Officer submitted a report to consider an application made under Section 17 of the Licencing Act 2003, for a premises licence in respect of the premises known as Zabka Mini Market, 712 Attercliffe Road, Sheffield, S9 3RP (Ref. No.10/23).
- 5.2 Present at the meeting were June Clarke (JMC Licencing Consultants, for the premises), Miran Mohammad (Applicant), David Clutterbrook and Neil Bates (Trading Standards), Jane Gough (Licencing Policy and Strategy Officer), Carol Curtin and Jack Risely- Boyt (Legal Services) and John Turner (Democratic Services).
- 5.3 Jack Risely Boyt outlined the procedure which would be followed during the hearing.
- 5.4 Jane Gough presented the report to the Sub-Committee, and it was noted that representations had been received from Trading Standards, and were attached at Appendix "B" to the report.
- 5.5 David Clutterbrook reported that on 5th November 2022, Trading Standards conducted a test purchase operation at the premises for illegal tobacco, which resulted in the sale of 20 x Richmond king size cigarettes being made at a cost of £4. The product, which was passed round for inspection by all parties at the hearing, had been confirmed to be illegal, and the cost was significantly cheaper than that of a legitimate packet of cigarettes. Mr Clutterbrook stressed that this failed test purchase had occurred just three days prior to the application for the premises licence being submitted. He referred to the problems caused by the sale of illicit tobacco, which was a national problem, and one which had increased during the current cost of living crisis. Trading Standards officers spent a considerable amount of time dealing with the problem, and it also had an adverse effect on legitimate retailers. The supply of illegal tobacco costs taxpayers around £2b a year in lost revenue. Mr Clutterbrook concluded by stating that, in the light of the failed test purchase, and the timing of such failure, he did not believe that a premises licence should be granted in this case.
- 5.6 In response to questions raised by Members of, and the legal advisor to, the Sub-Committee, and June Clarke, it was stated that Trading Standards officers did not routinely test the contents of illicit cigarettes as there had been considerable testing carried out on such goods in the past. There was only one packet of cigarettes sold during the test purchase operation at the premises. Officers could not confirm whether or not there was a link between the sale of illicit tobacco and alcohol, in terms of the supply chain, but suspected that this could well be the case. Once the cigarettes had been purchased, they were placed in an evidence bag and recorded, with no further action being taken at this stage. Whilst officers would not return to the premises directly after a test purchase, as this could identify the test purchaser, they would visit the premises sometime in the future to carry out an inspection, remove any illicit goods found there, and take any relevant

enforcement action. In terms of action against the owner of the premises, Trading Standards had traditional powers of enforcement, which included prosecution, formal caution or a warning. Under the Trade Marks Act 1994, the maximum sentence for selling illicit tobacco was a 10 year prison sentence. Whilst officers were not sure why it had taken a month for the test purchaser to write her statement following the test purchase, it was believed that such delay had been caused by the fact that she had carried out around 20 test purchases on 5th November 2022. There had only been the one test purchase carried out at the premises in the last two months and last two years. The identification of the person who sold the cigarettes was not deemed relevant for the purposes of this application. Officers also deemed the fact that the test purchaser had identified the person who sold the cigarettes as Kurdish irrelevant also. If Mr Mohammad had not been applying for a premises licence, Trading Standards would most likely be gathering further information regarding the failed test purchase, but Mr Clutterbrook could not confirm whether or not this would result in a prosecution. Whilst Trading Standards used their own enforcement legislation, they would work with the police on occasions, such as if there were breaches of the peace and where officers required protection, during visits and inspections.

- 5.7 June Clarke stated that Mr Mohammad had a strong and robust operating schedule, which fully supported the Sheffield Statement of Licensing Policy. This schedule would be supported by a set of compliance log books, including refusal, incident, CCTV, training, staff induction and age verification. In addition, all the relevant signs and notices would be displayed on the premises. Mr Mohammad took possession of the store in September 2022, and has had the help of a number of friends to work there when he was not around. Mr Mohammad was very upset about the test purchase failure on 5th November 2022, and despite his efforts, he has not been able to identify the seller. Ms Clarke referred to the lack of detail in the test purchaser's statement regarding the sale of the cigarettes, and stressed that the only identification as to the seller, on the statement, was that he appeared to be of Kurdish origin. She also questioned why the two Trading Standards officers, who were sat in a car outside the shop at the time of the sale, and who drove off straight afterwards, did not go into the shop to question the seller at that point, as this would have enabled them to identify the seller. Mr Mohammad was clear that it was not him who made the sale as he does not sell cigarettes at the shop, and wouldn't have taken the risk on the grounds that he was about to apply for a premises licence. Ms Clarke concluded by stating that Mr Mohammad had done nothing wrong, and had not committed any offence, therefore should not be penalised in this case. Mr Mohammad had spoken to everyone who had helped out in the shop, but they had all denied making the sale.
- 5.8 In response to questions raised by Members of, and the legal adviser to, the Sub-Committee, it was stated that Mr Mohammad does not currently employ any staff, but just asks for the help of friends to run the shop when he is not around. Due to the nature of the goods on sale at the shop at the present time, it has only been necessary to provide training with regard to the operation of the tills and sale of vapes, being the only age-restricted product currently on sale. He has two training logs at the shop, one on age-restricted products, and which contained a number of detailed questions for potential staff to answer, together with a staff induction log.

Mr Mohammad had not been able to identify the seller on 5th November, 2022 using the shop's CCTV as he had only just found out about the incident, and the images were only kept for one month. He was planning to increase the system's capacity by purchasing a new external hard drive, which would enable him to store images for 12 months. If a premises licence was granted, Mr Mohammad was hoping to rely on the help of his business partner. He was also planning to get an app on his mobile phone which would enable him to view CCTV images on his phone when he was away from the shop. Mr Mohammad stated that he had received the help of around 12 friends since taking ownership of the shop. He accepts that he should have been more careful in terms of the people he had asked to help him out. In terms of the future operation, if a premises licence was granted, the present operating schedule would need to be complied with, there were a number of training books relating to the various proposed conditions on the licence, and Ms Clarke would provide him with advice and offer training. Mr Mohammad had been under a lot of pressure setting up the business, but now realised where mistakes had been made, and would be more responsible in the future. He planned to have one or two members of staff working for him in the shop, who would be fully trained. Mr Mohammad has already made the decision that he will not be selling cigarettes at the shop.

- 5.9 Further to additional comments made by June Clarke, who stated that people had visited and searched the shop three times since 5th November 2022, Neil Bates stated that whilst he was not sure who these people were, he confirmed that they were not Trading Standards officers.
- 5.10 June Clarke summarised the case on behalf of the applicant.
- 5.11 Mr Clutterbrook summarised the case on behalf of Trading Standards and, as part of his summary, offered the two following conditions to the Sub-Committee if it was minded to grant the application, of which the applicant accepted:-
- (a) All tobacco products on the premises are to be stored either (i) in the cigarette gantry behind the sales counter or (ii) in a specifically designated area of the storeroom which is immediately visible on entry; and
 - (b) Receipts for all alcoholic, tobacco and nicotine containing products are to be retained on the premises, and will be made available to authorised officers of Sheffield City Council or South Yorkshire Police for inspection as required.
- 5.12 Jane Gough reported on the options available to the Sub-Committee.
- 5.13 **RESOLVED:** That the public and press and attendees involved in the application be excluded from the meeting before further discussion takes place on the grounds that, in view of the nature of the business to be transacted, if those persons were present, there would be a disclosure to them of exempt information as described in paragraph 5 of Schedule 12A to the Local Government Act 1972, as amended.

- 5.14 Carol Curtin and Jack Risely Boyt reported orally, giving legal advice on various aspects of the application.
- 5.15 RESOLVED: That, in the light of the information set out in the report now submitted, the representations now made and the responses to the questions raised, the application now made for a premises licence in respect of the premises known as Zabka Mini Market, 712 Attercliffe Road, Sheffield, S9 3RP (Ref. No. 10/23) be refused as the Committee was concerned that the applicant would not be able to uphold the licensing objectives, in particular, the prevention of crime and disorder.

(NOTE: The full reasons for the Sub-Committee's decision will be included in the written Notice of Determination.)

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