

MINUTES
OF A MEETING OF THE
LICENSING SUB-COMMITTEE A

held on 26 September 2023

Present:

Cllr L Rice (Chairman)
Cllr C Martin Cllr M Sullivan

Apologies for absence: Councillors A Caulfield, R Leach and S Hussain

1. ELECTION OF CHAIRMAN

Noting that apologies for absence had been received from the three Members appointed to the Sub-Committee, thereby including the Chairman (Councillor R Leach) and Vice-Chairman (Councillor S Hussain), Councillor L Rice was elected Chairman of the Sub-Committee for the meeting.

2. MINUTES

RESOLVED

That the minutes of the Sub-Committee held on 9 August 2023 be approved and signed as a true and correct record.

3. DECLARATIONS OF INTEREST

There were no Declarations of Interest.

4. URGENT BUSINESS

There were no items of Urgent Business.

5. APPLICATION FOR TRANSFER OF A PREMISES LICENCE AND VARIATION OF A DPS - PREMIER WYCH HILL (LONDIS), ABERDEEN HOUSE, WYCH HILL

The Sub-Committee had before it a report regarding an application for a transfer of a Premises Licence and Variation of a Designated Premises Supervisor (DPS) for Premier Wych Hill (Londis), Aberdeen House, Wych Hill, for which an objection had been received from Surrey Police. Jeremy Phillips of Counsel, Lesley Sumner and Ryan Scott attending the meeting to represent Surrey Police. Sutharsine Perayeravan, the Applicant and Owner of the premises, attended the meeting alongside Suresh Kanapathi of ARKA Licensing.

All parties present had a copy of the Licensing Committee's agreed procedure to be followed at Licensing Sub-Committee hearings.

The Licensing Authority's representative, Matthew Cobb, summarised the report that was before the Sub-Committee, stating that the application was to:

- transfer of the Premises Licence to Mrs Sutharsine Perayeravan; and
- change the Designated Premises Supervisor to Mr Navaratnam Pathmilan.

Mr Cobb stated that the objection received from Surrey Police was based on the belief that neither proposed person would uphold the licensing objectives. Following the passing of the ownership of the store to Mrs Perayeravan on 24 May 2023 and the surrender of the Premises Licence on 28 July 2023 by the previous holder, the premises had continued to sell alcohol until 22 August 2023, the date the application to transfer the licence had been submitted, and had failed a test purchase for sale of alcohol to a minor undertaken by Surrey Police on 17 August 2023. In addition, the Applicant had advised the Licensing department that no alcohol had been on-sale between the dates of 28 July 2023 and 22 August 2023.

The Sub-Committee was advised that on 11 September 2023 following discussion with the Police, the Applicant had submitted a minor variation to add further conditions to the licence. The variation was noted to be an entirely separate application and would only come into force if the Sub-Committee granted the two requests set out above.

None of the parties present had any questions for Mr Cobb.

The Chairman gave the Applicant the opportunity to address the Sub-Committee. Mr Kanapathi advised that Mrs Perayeravan had taken over ownership of the business on 24 May 2023 with an agreement from the previous licence holder to support the business for a period of three months. However this commitment had not been fulfilled due to illness of the previous holder. It was stated the reason for the surrender of the licence on 28 July 2023 was unknown and once the Applicant had become aware, contact was made with ARKA Licensing for support. The sale of alcohol to a minor was described by Mr Kanapathi as very unfortunate, with the member of staff on duty claiming that he had fallen asleep beforehand. A meeting had been held with Surrey Police following the incident. It was stated that the trading environment was difficult for the business and a month loss of circa £1,000 was currently being incurred, however the business would seek to uphold the licensing objectives. The Sub-Committee was urged to approve the applications.

The Chairman gave Mr Cobb the opportunity to ask questions to the Applicant. It was noted that there were two part-time employees assisting the owner; the proposed DPS was married to the owner's sister; once commissioned ARKA Licensing had explained the conditions of the licence to the Applicant and had rectified a number of licensing discrepancies, such as at least two members of staff being on duty when alcohol was on-sale; the Applicant was aware of the requirement to display Part B of a valid Premises Licence in the store; and there was no document setting out the support for three months as agreed with the previous licence holder. In addition, no reason was provided as to why the Applicant had advised the Licensing department that no alcohol had been on-sale between 28 July 2023 and 22 August 2023, during which time the failed test purchase occurred. Mrs Perayeravan apologised for the sale of alcohol to a minor and advised that she had since completed a one day licensing course.

The Chairman gave Surrey Police the opportunity to question the Applicant. It was reiterated that the previous holder was also the DPS and had agreed to support the business for three months but had been unwell and had surrendered the licence on 28 July 2023; the sale of alcohol had continued from this date, following which a test purchase had failed and the member of staff had claimed he had fallen asleep; the member of staff was also the proposed DPS in the application; and the Applicant was now aware of all conditions on the licence.

Following questions by Members of the Sub-Committee, the Applicant confirmed that two members of staff were now on duty at any time alcohol was on-sale and all staff were aware of the requirement.

The Chairman gave Surrey Police the opportunity to address the Sub-Committee. Mr Phillips stated that the Police objection had been submitted on the basis that both the Applicant and the proposed DPS had demonstrated significant doubt over whether they were responsible enough to uphold the licensing objectives, in particular the protection of children from harm. The Sub-Committee was urged to decline the applications.

Neither Mr Cobb nor the representatives from Londis had any questions for Surrey Police.

The Chairman referred to the original application for a Premises Licence which had been determined by Sub-Committee on 13 July 2011 and it was noted that no objections had been received from statutory agencies, however 31 objections had been submitted by members of the public for reasons including increase in crime, traffic and alcohol related nuisance issues. No objections from members of the public had been received in response to the matter in hand.

The Chairman gave those present the opportunity to make closing statements.

Mr Cobb stated that the Licensing Authority held concerns over the suitability of the Applicant and proposed DPS to uphold the licensing objectives; the sale of alcohol to a minor had not been adequately explained; the Applicant seemed to have a low level of understanding of licensing law and there was little confidence over compliance with the conditions already attached to the licence. It was stated that for a small business that was struggling, there could be a temptation to cut corners or make every sale possible. Mr Cobb stated that whatever the outcome of the hearing, the business must operate within the confines of the law.

Mr Phillips stated that the Police were extremely concerned that the business had been selling alcohol for a two month period without written delegation from the previous holder of the Premises Licence; and had continued to sell alcohol after the licence had been surrendered, during which time a test purchase carried out by Surrey Police had been failed.

Mr Kanapathi asked the Sub-Committee to support the owner and her business, noting that no complaints had been received from local residents and the test purchase failure had been a mistake, following which a warning letter had been received. It was stated that the store was operating under a new system with clear signage, and the Sub-Committee was urged to approve the applications.

The Chairman adjourned the meeting at 12.35pm. The Sub-Committee deliberated in private, requesting that the Council's Solicitor, Amanda Francis, join them for the provision of legal advice, and re-assembled at 1.05pm.

The Chairman advised those present that the Sub-Committee had taken into account the written representations before it, the oral statements made at the meeting, the Council's Licensing Policy and national guidance.

The Chairman reported that the Licensing Sub-Committee in respect of Premier Wych Hill (Londis), Aberdeen House, Wych Hill had resolved to reject the application to transfer the premises licence and variation of the DPS. In coming to its decision, the Sub-Committee

had taken into account the written representations before it, the oral statements made at the meeting, the Council's Licensing Policy and national guidance.

The Chairman stated that the offence of selling alcohol to a minor was contrary to the licensing objectives related to the prevention of crime and the protection of children from harm. The Sub-Committee was satisfied that the Applicant and the proposed new DPS had control of the premises at the time of the Police visit to the premises on 17 August 2023 and that the offence which took place on 17 August 2023 seriously undermined the licensing objectives. As such the transfer of the premises licence and variation of DPS to Mr Pathmilan would undermine the licensing objectives, in particular the crime and disorder and protection of children from harm.

The Chairman added that the Sub-Committee felt that the Applicant had not been truthful in relation to the events of the 17 August 2023 and did not display clear knowledge and understanding of licensing laws; hence the Sub-Committee had little confidence of compliance with the legislation.

There was the right of appeal to the Magistrate's Court within 21 days.

RESOLVED

That the applications to transfer the Premises Licence and amend the Designated Premises Supervisor be refused.

The meeting commenced at 11.30 am
and ended at 1.10 pm

Chairman: _____

Date: _____