

SPEAKERS PANEL (LIQUOR LICENSING)

11 January 2021

Commenced:10.00am

Terminated: 2.30pm

Present: Councillors Sweeton (Chair), Bowden and Quinn

In Attendance:	Mike Robinson	Regulatory Services Manager
	James Horton	Regulatory Compliance Officer
	Nicola Healey	Regulatory Support Officer
	David Joy	Legal Representative TMBC
	Ashleigh Melia	Legal Services Officer TMBC (observer)
	PC Thorley	Greater Manchester Police
	PC Lawton	Greater Manchester Police
	Nicola Briers	Trading Standards Officer (observer)
	James Mallion	Public Health
	Rebecca Penfold	Counsel
	Jeitan Panchani	Premises Licence Holder

9. DECLARATIONS OF INTEREST

There were no declarations of interest.

10. MINUTES

To approve as a correct record the Minutes of the proceedings of the Speakers' Panel (Liquor Licensing) held on 12 August, 13 August and 20 August 2020 (attached).

11. APPLICATION FOR A REVIEW OF A PREMISES LICENCE – JITS SUPERSHOP, 21 MARKET STREET, STALYBRIDGE. SK15 2AL

Consideration was given to an application for a review of a premises licence for Jits Super Shop, 21 Market Street, Stalybridge. SK15 2AL.

It was explained that Jits Super Shop, 21 Market Street, Stalybridge, SK15 2AL, was first granted a Premise Licence under the Licensing Act 2003 on 8 September 2006. Mr Jeitan Panchani had been the Premises Licence Holder and Designated Premises Supervisor since September 2013.

On 23 November 2020 the Licensing Authority received an application from Tameside MBC Trading Standards Service (in its capacity as a Responsible Authority under the Licensing Act 2003) for a review of the Premises Licence for Jits Super Shop.

An application was made by Nicola Briers on behalf of Trading Standards to exclude the public and press for part of the hearing, namely, whilst the CCTV evidence was presented. The grounds of the application were that the CCTV identified persons under the age of 18.

Having applied the public interest test (Sch 12A LGA 1972/Reg 14 of the Licensing Hearing Regs) the Panel decided to proceed with the hearing in private but only whilst the CCTV was played in the

hearing and any questions regarding the CCTV content were asked and answered. The Panel considered that to proceed with this part of the hearing in public would be prejudicial to the interests of the young persons identified on the CCTV and more generally, the interests of justice. Once this part of the hearing was concluded the hearing returned to public session. (This part of the hearing was repeated as a Panel member dropped out of the hearing for a short period).

Mr Robinson presented the report to the Panel and identified the steps available to the Panel in determining the review (s52 (4) Licensing Act 2003). Mr Robinson informed the Panel of the brief background to the review as set out in the report and summarised the representations received.

Nicola Briers, Trading Standards Officer, then presented the Review application on behalf of Tameside MBC Trading Standards Service. Ms Briers referred the Panel to the Review Application, her witness statement and the exhibits identified in the statement (all appended to the report to the Panel). The Panel and those in attendance at the hearing viewed the CCTV in relation to an incident at the premises on 19 October 2020 presented by Ms Briers.

James Mallion presented a representation on behalf of Tameside MBC Population Health. Mr Mallion referred the Panel to his written representation (appended to the report to Panel).

Regulatory Compliance Officer James Horton submitted a representation on behalf of the Licensing Authority. Mr Horton referred the Panel to the content of the representation (appended to the report to Panel).

PC Thorley presented a representation on behalf of Greater Manchester Police. PC Thorley referred the Panel to his statement (appended to the report to Panel). PC Lawton then presented his statement to the Panel (appended to the report to Panel).

A number of additional written representations were received in relation to the Review as follows:

- Assistant Principal, Copley Academy
- Assistant Head, West Hill School
- Parent of pupil of West Hill School

These representations were read out to the Panel by Mike Robinson, Regulatory Services Manager.

Ms Penfold (Counsel) on behalf of the Licence Holder then addressed the Panel and read out the witness statements provided by the licence holder and the recently appointed manager of the premises. Reference was also made to the Document Bundle served by the Licence Holder which included details of till improvements, staff training, increased signage in the premises relating to age restricted sales and details of refusals (for the period June – December 2020). Mr Panchani, Premises Licence Holder, also addressed the Panel and responded to questions asked.

All parties were afforded the opportunity to ask questions in relation to the representations made.

All parties were invited to provide a brief statement in summary.

Members of the Panel then retired to carefully consider the written report, representations and questions and answers during the hearing in addition to all the information provided. The Panel were accompanied by the Legal Representative and the Principal Democratic Services Officer who provided legal and procedural advice only and took no part in the decision making process.

In determining this matter, the Panel has had due regard to:

- The report to Panel
- The Review application and representations
- All oral and written evidence and submissions
- The Council's Statement of Licensing Policy,
- The relevant sections of the Licensing Act 2003 and Regulations made thereunder

- The Guidance issued by the Secretary of State under section 182 of that Act.

The Panel noted that in determining this review it must, having regard to the application and any relevant representations, take such steps as identified in s52(4) of the Licensing Act 2003 as it considered appropriate for the promotion of the licensing objectives, in particular, the protection of children from harm and the prevention of crime and disorder.

The Panel noted the recent history of relevant events at the premises, summarised as follows:

- Between November 2017 and November 2018 TMBC Trading Standards received 3 complaints from local schools that the premises were selling both alcohol and cigarettes to under age persons.
- There was a visit to the premises in September 2018 and a discussion with the Licence Holder regarding the issue. Advice was given regarding proxy sales/notices. The refusals book was unavailable for inspection.
- A meeting was held in February 2019 between TMBC Officers and the Licence Holder following a visit to the premises in January 2019 (during which a staff member was abusive to a police officer in attendance). At this meeting advice was given and an agreement reached to amend the licence conditions (as an alternative to a licence review). The licence conditions were amended with effect from March 2019 and included conditions relating to CCTV, Challenge 25, Refusals book, proxy notices, staff training etc.
- In June 2019 a complaint was received by TMBC Trading Standards relating to the sale of cigarettes from the premises to under age persons/pupils from West Hill School.
- In September/October 2019 reports were received of illicit/counterfeit tobacco being sold from the premises. A visit revealed no illicit tobacco on the premises.
- In October 2019 concerns were raised regarding the selling of single cigarettes from the premises to local school pupils (West Hill School and Copley Academy). A further report was received in November 2019.
- On 6 June 2020 alcohol was sold from the premises to under age persons. Upon the Police intervening the alcohol was returned and a refund given. There were issues with the CCTV system at the premises. A proxy notice was displayed in the premises. The refusals book was available for inspection but had no entries for the previous 12 months.
- On 16 June 2020 the refusals books was inspected and recent entries had been made. Advice was given regarding the sale of age restricted products.
- In September 2020 a report was received that alcohol had been sold from the premises to 3 under-age girls. This report could not be investigated further due to lack of details.
- In October 2020 two single cigarettes were sold from the premises to an under-age person. The person was identified as a pupil of Copley Academy.
- In November 2020 fireworks were reportedly sold from the premises to an under-age person. The till record and CCTV did not identify a sale.
- In November 2020 a single cigarette appeared to have been sold from the premises to the same under-age person who purchased cigarettes from the premises in October 2020. There were issues obtaining the CCTV footage.
- On 23 November 2020 an inspection was undertaken. The CCTV was not fully compliant. The training records were not available for inspection.

The Panel further noted with concern, the health statistics for the Borough/postcode area arising from alcohol consumption and use of tobacco and the impact of alcohol and tobacco consumption on young persons.

The Panel noted that:

- The Licence Holder stated that he had problems with staff over a number of years and that the staff rather than the Licence Holder were present at the time of the reported under-age sales. The Licence Holder said that he had dismissed staff involved in under-age sales.
- The Licence Holder had issues with adults purchasing age restricted products for under age persons (proxy sales)

- The License holder said that reports of sales from the premises (eg fireworks) were not always accurate.
- The Licence Holder had recently taken additional steps to try and prevent the sale of age restricted products from the premises, namely,
 - Employing a manager
 - Improving staff recruitment
 - Improved staff training
 - Increased signage in the premises relating to age restricted products and proxy sales.
 - A till upgrade (including alert to help prevent under age sales)
 - Trying to prevent young people congregating outside the premises

The Panel concluded that:

There was a long history of issues at the premises regarding age restricted products. The Licence Holder/DPS was responsible for managing the premises and in doing so must promote the licensing objectives.

Despite the imposition of conditions in 2019 and provision of advice there had been no significant improvement in preventing the sale of restricted products to under age persons.

The Panel had considered all available options.

The Panel noted the very recent measures taken by the Licence Holder to try to prevent further issues arising with regard to the age restricted products. Whilst the Panel had, in light of the history of issues and additional conditions imposed in 2019, seriously considered revoking the premises licence, on balance, the Panel concluded that, having regard to proportionality, the Licence Holder should be given a further opportunity to demonstrate that with:

- the additional measures identified by him;
- a short licence suspension (to reflect the seriousness of the situation and allow the licence holder time to fully implement the required changes); and
- the imposition of additional conditions (to ensure that staff are fully/appropriately trained and help prevent future under age sales)

He could manage the premises in a way that prevented under-age sales and promoted the licensing objectives.

The Licence Holder was reminded that he was ultimately responsible for what occurred on the premises whether he was present or not.

RESOLVED

The steps to be taken that were considered appropriate to promote the licensing objectives are:

- (i) That the licence be suspended for a period of 2 months. This will enable the Licence Holder time to properly put in place the new measures that he has identified.**
- (ii) Additional licence conditions to be inserted in Annex 3 of the licence:**
 - a. A personal licence holder must be present on the premises at any time that there is a retail sale of alcohol on the premises.**
 - b. There shall be no more than 2 customers under the age of 18 years of age allowed in the premises at the same time (excluding any persons under the age of 18 who are accompanied on the premises by a responsible adult).**

Whilst the Panel could not tie the hands of a future Panel, this decision should be regarded as a final opportunity for the Licence Holder to demonstrate that he could promote the licensing objectives. Any future issues may lead to the licence being revoked.