

LICENSING SUB-COMMITTEE**1 May 2012****Attendance:**

Councillors:

Wright (Chairman) (P)

Bodgter (P)

Phillips (P)

Officers in Attendance:

Miss C Stefanczuk (Licensing Officer)

Mrs A Taylor (Licensing Officer)

Mr J Myall (Licensing Manager)

Mrs C Tetstall (Property and Licensing Solicitor)

1. **REVIEW OF PREMISES LICENCE: R&K NEWS, STOCKBRIDGE ROAD, WINCHESTER**
[\(Report LR378 refers\)](#)

The Chairman welcomed to the meeting Mr Lawford (the applicant, representing Hampshire County Council Trading Standards), Mr Hudson (Licensing Consultant representing the Licence Holders), Messrs J and M Patel (the Licence Holders) and PC Read (Hampshire Constabulary).

Miss Stefanczuk introduced the Report which set out the details of the Review.

Mr Lawford addressed the Sub-Committee as the applicant for the Review. In summary, he explained that the Review was a regrettable but unavoidable step for Trading Standards to take, given that the premises had failed two test purchase operations by selling alcohol to a minor.

Following the first failure, Trading Standards and the Police had discussed the seriousness of the issue with the Licence Holders and provided them with an action plan, designed to prevent a second failure, and advised of the importance that the plan.

Following the second failure, the Police and Trading Standards interviewed Messrs J and M Patel. From their discussions with the Licence Holders, Trading Standards had discovered that the Designated Premises Supervisor (DPS), Mr Menon was no longer resident in the UK, that the Licence Holders were rarely at the premises, and that there was no evidence of training procedures for staff, a refusals book, or the operation of Policy 21. After the first failure, and on the advice of Trading Standards, a refusals book (logging incidences of refused sales) had been in operation for one week only before lapsing back into disuse.

Mr Lawford issued the Licence Holders with a Closure Notice (as set out in Appendix 4a of the Report) following the interview. The Licence Holders accepted the Notice and complied with the terms of the Notice.

As part of his presentation, Mr Lawford also referred the Sub-Committee to the statutory guidance set out in Appendix 2.

Mr Lawford recommended that the Sub-Committee should revoke the Licence, as placing further conditions on the licence were likely to have little effect. This was because he believed that additional conditions were likely to be similar to the Action Plan (which Trading Standards had provided to the Licence Holder after the first failure) and to which they had failed to adhere.

PC Read (as relevant representation) spoke in support of revoking the Licence. He underlined that the volunteers of test purchases were deliberately chosen for looking young and were “retired” at 16.5 years old. PC Read also reminded the Sub-Committee of the detrimental effects of under-age alcohol sales to both the individual and the wider community.

In response to a question from Mr Hudson, PC Read and Mr Lawford explained that once a Review had been called, it was standard practice for both authorities to not re-test the premises.

Mr Hudson addressed the Sub-Committee on behalf of the Licence Holders and against the applicant’s recommendation to revoke the licence. In summary, he explained that the Licence Holders had apologised for the mistakes that had been made. Subsequent to the second test failure, the Licence Holders had fully adopted the Action Plan received from Trading Standards. He explained that the previous DPS (Mr Menon) had left the premises to go on holiday, but had failed to return. The test failures had occurred whilst Mr Menon was away. Subsequently Mr Kunal Shah had been employed as a replacement and had recently passed the Personal Licence qualifications. His application to the Licensing Authority was pending. The Licence Holders had agreed to regularly visit the premises.

Mr Hudson also produced a letter from Camelot, which highlighted how the Licence Holders had refused to sell lottery tickets to under-age customers.

Mr Hudson explained that the sale of alcohol was a critical part of the financial viability of the business, which the Licence Holders had been operating for four years.

Mr Hudson suggested that the revocation of the Licence was not proportionate, nor would it promote the licensing objectives. In contrast, he explained that the proposed conditions set out in Report LR379 (considered below) could be considered necessary and proportionate and would be welcomed by the Licence Holders. If the Sub-Committee were minded to suspend the Licence, Mr Hudson requested that this be for the shortest time possible and he referred Members to the Secretary of State’s advice that the Licensing Authority’s action should be proportionate.

In response to Member's questions, Mr Hudson explained that the Licence Holders had other business interests in Hampshire and London and had previously appointed Mr Menon (now replaced by Mr Shah) to run R&K News as the day-to-day manager.

Mr Hudson also explained that the business had been running in accordance with the Trading Standards' Action Plan, but that (in accordance with normal practice) evidence of this had not been passed to any of the authorities.

Members also discussed and noted the improved training regime for staff.

In summing up his application for the Review, Mr Lawford reiterated the Licence Holders' failure to take the necessary action which would have prevented the second test failure.

The Sub-Committee then retired in camera to consider the application.

In his closing remarks, the Chairman stated that the Sub-Committee had carefully considered the application and the representations made. It had taken into account the duties under the Crime and Disorder Act 1998, the rights set out in the Human Rights Act 1998.

The Sub Committee agreed to allow the application to review the licence, as set out in the Report. However, in response to the concerns raised by Trading Standards and the Police, the Sub-Committee agreed that the Licence should be suspended for a period of one week. To further the licensing objectives relating to the prevention of crime and disorder, and public safety, Members also agreed that the premises licence should be amended by including the proposed Conditions (1-5) from Report LR379, excluding the Condition relating to CCTV, with an amendment to Condition 5 as shown in italics below.

The Chairman thanked all present for attending the meeting and explained all parties' right to appeal to the Magistrates Court within 21 days.

RESOLVED:

1. That the Licence be suspended for a period of one week.
2. That the following additional Conditions be included on the Licence:

Mandatory Conditions

1. No supply of alcohol may be made under the Premises Licence (a) at a time when there is no Designated Premises Supervisor in respect of the Premises Licence, or (b) at a time when the Designated Premises Supervisor does not hold a Personal Licence or his Personal Licence is suspended.

2. Every supply of alcohol under the Premises Licence must be made or authorised by a person who holds a Personal Licence.

3. Where individuals are required on premises to carry out security activities, they must be licensed by the Security Industry Authority.

4. The responsible person shall take all reasonable steps to ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.

5. The premises licence holder or club premises certificate holder shall ensure that an age verification policy applies to the premises in relation to the sale or supply of alcohol.

6. The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and a holographic mark.

Additional Conditions

1. A written log shall be kept of all refusals including refusals to sell alcohol. The holders of the premises licence shall ensure that the refusals log is properly maintained and checked and signed on a weekly basis and be produced on request to Police and Trading Standards officers.

2. The holder of the premises licence shall ensure that every individual who appears to be under 25 years of age seeking to purchase alcohol at or from the premises shall produce means of identification acceptable to the Licensing Authority – passport, photo driving licence or PASS accredited photo ID – proving that individual to be 18 years of age or older. If the person seeking alcohol is unable to produce acceptable means of identification, no sale or supply of alcohol will be made to or for that person.

3. All staff shall be trained to challenge every individual who appears to be under 25 years of age and to refuse service where individuals cannot produce acceptable means of identification. Such training shall be provided no less than every three months, and written records shall be kept of all training and refresher training, and be produced on request to Police and Trading Standards officers.

4. 'Challenge 25' posters shall be displayed in prominent positions at the premises.

5. The *current or any future* DPS must have passed the BIIAB Level 2 Award for Designated Premises Supervisors (ADPS) or equivalent qualification *within three months*.

2. **REVIEW OF PREMISES LICENCE: STANMORE STORES, 7-11 WAVELL WAY, WINCHESTER**

[\(Report LR379 refers\)](#)

The following were present for this item; Mr Lawford (the applicant, representing Hampshire County Council Trading Standards), PC Read (Hampshire Constabulary) and Mr Jan (the Premises Licence Holder).

Mrs Taylor introduced the Report which set out the details of the Review.

Mr Lawford addressed the Sub-Committee as the applicant for the Review. In summary, he explained that the premises had failed two of three test purchases, by selling alcohol to underage customers. Following discussions with the Licence Holder, Mr Lawford explained that all parties had agreed to recommend that the licence not be revoked or suspended, but that it be amended by the proposed Conditions set out in the Report.

PC read spoke in support of the proposed Conditions set out in the Report.

Mr Jan (the Licence Holder) apologised for test failures and welcomed the proposed Conditions.

In response to Member's questions, it was noted that the premises currently operated a CCTV system.

The Sub-Committee then retired in camera to consider the application.

In his closing remarks, the Chairman stated that the Sub-Committee had carefully considered the application and the representations made. It had taken into account the duties under the Crime and Disorder Act 1998, the rights set out in the Human Rights Act 1998.

The Sub Committee agreed to amend the Licence with the Conditions set out in the Report (and below, and amended as shown in italics) to further the licensing objectives relating to the prevention of crime and disorder, and public safety.

The Chairman thanked all present for attending the meeting and explained all parties' right to appeal to the Magistrates Court within 21 days.

RESOLVED:

That the following additional Conditions be included on the Licence:

Mandatory Conditions

1. No supply of alcohol may be made under the Premises Licence (a) at a time when there is no Designated Premises Supervisor in respect of the Premises Licence, or (b) at a time when the Designated Premises Supervisor does not hold a Personal Licence or his Personal Licence is suspended.
2. Every supply of alcohol under the Premises Licence must be made or authorised by a person who holds a Personal Licence.
3. Where individuals are required on premises to carry out security activities, they must be licensed by the Security Industry Authority.
4. The responsible person shall take all reasonable steps to ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.
5. The premises licence holder or club premises certificate holder shall ensure that an age verification policy applies to the premises in relation to the sale or supply of alcohol.
6. The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and a holographic mark.

Additional Conditions

1. A written log shall be kept of all refusals including refusals to sell alcohol. The holders of the premises licence shall ensure that the refusals log is properly maintained and checked and signed on a weekly basis and be produced on request to Police and Trading Standards officers.
2. The holder of the premises licence shall ensure that every individual who appears to be under 25 years of age seeking to purchase alcohol at or from the premises shall produce means of identification acceptable to the Licensing Authority – passport, photo driving licence or PASS accredited photo ID – proving that individual to be 18 years of age or older. If the person seeking alcohol is unable to produce acceptable means of identification, no sale or supply of alcohol will be made to or for that person.
3. All staff shall be trained to challenge every individual who appears to be under 25 years of age and to refuse service where individuals cannot produce acceptable means of identification. Such training shall be provided no less than every three months, and written records shall be kept of all training and refresher training, and be produced on request to Police and Trading Standards officers.

4. 'Challenge 25' posters shall be displayed in prominent positions at the premises.

5. The *current or any future* DPS must have passed the BIIAB Level 2 Award for Designated Premises Supervisors (ADPS) or equivalent qualification *within three months*.

6. A CCTV System must be installed and maintained to a standard agreed with Police.

a) All images must be retained for 28 days and made available to a police officer or an authorised officer on request.

b) There must always be a member of staff capable of operating the CCTV system whilst the premises are open for licensable activity.

c) Any images recovered must be in a format that can be readily taken away and viewed on any computer operating on any windows based program , or DVD player. This will be without the requirement for addition software to be installed.

d) The CCTV system must be operating at all times whilst the premises are open for licensable activity.

The meeting commenced at 10.30am and concluded at 12.30pm.

Chairman