

LICENSING SUB-COMMITTEE
29th August, 2024

Present:- Councillor Beresford (in the Chair); Councillors Bennett-Sylvester and Harper.

CONSIDERATION OF AN APPLICATION (MADE IN ACCORDANCE WITH S.51 OF THE LICENSING ACT 2003) TO REVIEW THE PREMISES LICENCE IN RESPECT OF THE PREMISES KNOWN AS ROTHERHAM'S BEST SITUATED AT 88 CAMBRIDGE STREET, CLIFTON, ROTHERHAM, S65 2ST

Consideration was given to an application (made in accordance with Section 51 of the Licensing Act 2003) to review the Premises Licence in place at Rotherham's Best, 88 Cambridge Street, Clifton, Rotherham.

The Chief Constable of South Yorkshire Police (acting in their role as a Responsible Authority under the Licensing Act 2003) had made the application on 20th June, 2024 for the review of the Premises Licence in place at Rotherham's Best, 88 Cambridge Street, Clifton, Rotherham.

The premises traded as an off licence/grocery shop and was currently licensed for the sale of alcohol for consumption off the premises only.

The review application by the Responsible Authority was submitted on the grounds that the Premises Licence holder, Mr. Ilyas Nishat had failed to promote three of the licensing objectives, namely, the:-

- Prevention of crime and disorder.
- Public safety.
- Protection of children from harm.

The review application, therefore sought, the revocation of the Premises Licence.

Representations in support of the review application have been made by the Licensing Authority (in their role as a Responsible Authority under the Licensing Act 2003).

The Sub-Committee heard representations from Mrs. D. Kraus (Principal Licensing Officer). In addition, Mr. I. Nishat (Premises Licence Holder) and Mr. N. Burhan (Designated Premises Supervisor) were in attendance.

The Sub-Committee heard from representatives of both the Responsible Authority and the Licensing Authority, who supported the application for a full review of the premises and were seeking a revocation of the premises licence on the grounds that the Premises Licence Holder was failing to properly promote three of the licensing objectives (as listed above) due to:-

- Police Officers having evidence of breaches of the Premises Licence conditions on three recent occasions and on 4th May, 2024 alcohol was sold to a seventeen year old test purchaser.
- The Licence holder, Mr I. Nishat, had a history of non-compliance with the conditions of the Premises Licence, all of which were necessary to promote the licensing objectives.
- Police and Council Licensing Officers have previously made every effort to work with Mr. Nishat to achieve compliance. Lengthy and repeated visits have been undertaken alongside written warnings and notices to improve. When this failed to bring about compliance the Licensing Authority previously sought a review of the Licence, which resulted in the Licence being revoked.
- Mr. Nishat succeeded in retaining the Premises Licence on appeal to the Magistrates Court. However, the Magistrates recognised the need for management control conditions, imposing ten separate conditions on the Premises Licence via a consent order on 3rd August, 2023.
- On 15th May 2024 Police Officers visited the shop with the objective of reviewing recordings from the CCTV system installed at the premises. Officers found that the CCTV system was not working, and no recordings were available to view. This was in breach of the conditions imposed by the Magistrates:-
 - Condition 8. The premises shall install a CCTV system at the premises which has 30-day recording and retrieval and be capable of downloading onto a portable storage device such as DVD or memory stick. The CCTV cameras shall cover the entirety of the premises, including the till area where payment is made for alcohol.
 - Condition 9. The location of the monitor to allow playback and retrieval of data shall be located in an area which is easily and safely accessible to Police Officers and Local Authority Officers. At least one current staff member shall be trained in the use of the system to ensure rapid data retrieval and download is retrieved should it be required by a Police Officer or Council Officer.
 - Condition 10. The Police and authorised Local Authority officers will be given unhindered access to the CCTV system as soon as is reasonably practicable for them to take copies of the images in connection with the prevention and detection of crime and disorder.
- On the 30th May 2024 the Police Licensing Officer attended the shop and conducted a licensing compliance inspection, and again observed the Licence Holder was not operating in compliance with Conditions 8, 9 and 10 (as detailed above), together with the following conditions:-

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- Condition 2. Notices advertising that the premises operate a "Challenge 25" scheme shall be displayed in a clear and prominent position at the retail premises entrance and at the till area. Condition 3. All staff who are to be involved in the sale of alcohol shall be trained in the prevention of sales to underaged persons, and the challenge 25 scheme in operation at the premises.
- Condition 4. A record of such training shall be kept/be accessible at the premises at all times and be made immediately available for inspection at the premises to council or police officers on request. The training record shall include the trainee's name, the trainer's name, the signature of the trainee, the signature of the trainer, the date(s) of training and a declaration that the training has been received.
- Condition 5. An alcohol authorisation form shall be kept at the premises, this form will detail any member of staff that is authorised to sell alcohol on behalf of the designated premises supervisor. This form needs to have the names of the persons authorised along with the signature of the designated premises supervisor and the date of which it was signed. This form shall be refreshed annually and made available for inspection upon demand by any police officer or any authorised local authority officers.
- Condition 6. A refusals log shall be kept that will record any refusals of sale for alcohol or other age restricted products at the premises. This should detail the time and date and a brief description of the refusal. This book will always be kept on the premises and be made available for inspection immediately upon the demand of the police or authorised local authority officers. The records in this book must be held for a period of no less than 12 months. The Designated Premises Supervisor shall check the refusals book monthly to ensure all staff are using it and shall sign and date it immediately after the latest entry.
- Condition 7. An incident book shall be kept that will record the date, time and circumstances of any disorder, ejection or other relevant incident that occurs on the premises. This book will always be kept on the premises and be made available for inspection immediately upon the demand of the police or authorised local authority officers. The Designated Premises Supervisor shall check the incident book monthly to ensure all staff are using it and shall sign and date it immediately after the latest entry.

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- At the time of this visit the shop was in the sole charge of an unknown male, neither the Licence holder nor Designated Premises Supervisor were in attendance at the shop.
- On 4th June 2024 alcohol was sold to a seventeen year old test purchaser thus further demonstrating a failure to promote the licensing objectives and no compliance with:-
 - Condition 1. The age verification policy operated at the premises shall be "Challenge 25". This means that whilst alcohol may be sold to persons aged eighteen years or over, any person who appeared under twenty-five years of age should be required to provide proof of age using an acceptable form of ID. The only forms of ID that may be accepted were:-
 - a) a proof of age card bearing the PASS hologram logo;
 - b) a passport;
 - c) a UK photo driving licence; or
 - d) a military ID card.
- The sale of alcohol was made by Mr. S. Nishat (the Licence Holder's father) and neither the Licence Holder nor the Designated Premises Supervisor were in attendance at the shop at the time of the sale. Mr. S. Nishat stated that he thought the child was nineteen years of age. His statement demonstrated that Challenge 25 was not being operated at the time of the sale.
- On 5th June 2024 the Police Licensing Officer again attended the shop to attend a pre-arranged meeting with Mr. Nishat, the Licence Holder. Upon arrival the shop was in sole charge of Mr. S. Hishat, with Mr. Nishat arriving shortly after. Again the Designated Premises Supervisor was not present. During this meeting Mr Nishat produced a refusal log, which was empty. It was noted that a "Challenge 25" poster was on display.

Mr. I. Nishat, Licence Holder, and Mr. N. Burhan, Designed Premises Supervisor, addressed the concerns raised by the Responsible Authority and Licensing Authority for the points above highlighting:-

- Support had been limited and attempts to change the name of the Designated Premises Supervisor had been problematic.
- The Licence Holder's father had received training and would ensure co-operation with the "Challenge 25" policy.
- All records had been available, but due to an internal refurbishment of the shop the location of where the records were kept was not widely known amongst staff.
- The CCTV had not been available during the shop refurbishment. CCTV was now back in operation.
- Hard copy record logs were now being kept. The Licence Holder believed electronic copies should have previously been sufficient to meet the conditions attached to the Premises Licence. This was why no hard copy records were presented at Police visits.

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- Missing Alcohol Authorisation Forms were now available and appropriate training given to staff.
- The Licence Holder and Designated Premises Supervisor were not always present at the shop, but were available when deliveries were made.
- Of all the premises managed by the Licence Holder and his extended family, this shop had been the most challenging.

Questions were raised with and by all parties, including the Sub-Committee before both the Responsible Authority/Licensing Authority and Licence Holder were asked to summarise their case.

The Responsible Authority concluded that despite the appeal hearing before the Magistrates' Court in 2023 and the subsequent conditions attached to the Premises Licence, the Licence Holder had still been unable to comply or had not fully understood the requirements of him.

Given the level of non-compliance with record and log keeping put in place to keep the public safe the application before the Sub-Committee today sought the revocation of the Premises Licence.

Mr. I. Nishat, Licence Holder, was confident that he was fully compliant electronically, but recognised during the refurbishment of the premises record books had not always been available.

The Sub-Committee considered the application for the review of the premises licence and the representations made specifically in light of the following Licensing objectives (as defined in the 2003 Act):-

- Prevention of crime and disorder.
- Public safety.
- Protection of children from harm.

On the basis of the information shared and the questions raised, there was no evidence to endorse compliance with the conditions of the Premises Licence.

Resolved:- That, after due consideration of the application for review and to the representations, the Premises Licence be revoked.