

FAREHAM

BOROUGH COUNCIL

Minutes of the Licensing Panel

(to be confirmed at the next meeting)

Date: Wednesday, 14 August 2024

Venue: Collingwood Room - Civic Offices

PRESENT:

Councillor Pamela Bryant (Chairman)

Councillors: I J Bastable and F L Burgess



1. EXCLUSION OF THE PUBLIC AND PRESS

RESOLVED that, in accordance with the Council's Constitution, specifically the Access to Information Procedure Rules contained within the Constitution, members of the press and public be excluded from the meeting in respect of item 3 on the agenda based on Categories 1 and 2 of paragraph 10.4 of the Access to Information Procedure Rules. The information contained therein was potentially exempt as it related to individual personal details and information held under data protection legislation. Having applied the public interest test it was not appropriate to disclose the information as the individuals' legal expectation of privacy outweighs the public interest in the exempt information.

2. EXCLUSION OF THE PRESS AND PUBLIC - LEGAL ADVICE

RESOLVED that at a predetermined point during the consideration of all items the Panel may move into private session in order to receive legal advice when determining issues. The parties to the hearing, press and public, unless otherwise excluded by the Licensing Act 2003 (Hearings) Regulations 2005, will be invited to return immediately following that private session at which time the matter will be determined and the decision of the Panel will be announced.

3. LICENSING ACT 2023 - APPLICATION FOR REVIEW OF PREMISES LICENCE - COSTCUTTER, 167 WEST STREET, FAREHAM PO16 0EF

Persons in attendance:

Mr Harmon Kapoor – Licence Holder
Mr Panchal – Licence Holder's Agent
Police Alcohol Licensing Officer Colin Pollard - Applicant
Martin Smith – Senior Trading Standards Officer
Emma Morley – Trading Standards Officer

The Panel had before it a report by the Licensing Officer which related to a request by Hampshire & Isle of Wight Constabulary to review the premises licence at Costcutter, 167 West Street, Fareham PO16 0EF on the grounds of Prevention of Crime and Disorder, Public Safety and the Protection of Children from Harm.

The report contained the procedure for the hearing and advised Members of the Panel of the representation made by a Responsible Authority. The report and supplementary information were made available in advance of the hearing to Panel Members, the Applicant, the Licence Holder and the Responsible Authority that had made representation.

The Chairman reminded participants that at the hearing held on 30 July 2024 the Panel had been advised that one of the interested parties had been unable to attend. The Panel had therefore determined that the hearing be adjourned to Wednesday 14 August 2024 at 10am on the grounds that it was in the public interest that the interested party attend the hearing to present their case.

The application for the review of the premises licence was heard in accordance with the Council's agreed procedure for hearings by the Licensing Panel and was considered as follows:

- (i) The Licensing Officer presented a summary of the application for review of the licence and of the representation received.
- (ii) The Applicant was invited to comment and ask questions for clarification on the application, as detailed by the Licensing Officer, and did so accordingly.
- (iii) The Licence Holder was invited to comment and ask questions for clarification on the application, as detailed by the Licensing Officer.
- (iv) The Responsible Authority was invited to comment and ask questions for clarification on the application, as detailed by the Licensing Officer.
- (v) Members of the Panel were invited to comment and ask questions for clarification on the application, as detailed by the Licensing Officer.
- (vi) The Applicant presented the case as brought forward and detailed in the agenda paperwork.
- (vii) The Responsible Authority was invited to comment and ask questions for clarification on the case, as presented by the Applicant, and did so accordingly to speak in support of the Application made for the review of the licence.
- (viii) Members of the Panel were invited to comment and ask questions for clarification on the case, as presented by the Applicant, and did so accordingly.
- (ix) The Licence Holder was invited to comment and ask questions for clarification on the case, as presented by the Applicant, and did so accordingly.
- (x) The Licensing Officer and the Legal Advisor were invited to comment and ask questions for clarification on the case presented by the Applicant.
- (xi) The Responsible Authority presented their representation in support of the licence review. A point for clarification was made to highlight that on page 45 of the agenda papers the date at bullet point 7 should read 20th December 2023 and not 20th December 2024.
- (xii) The Applicant was invited to comment and ask questions for clarification on the representation made by the Responsible Authority.

- (xiii) Members of the Panel were invited to comment and ask questions for clarification on the representation made by the Responsible Authority and did so accordingly.
- (xiv) The Licensing Officer was invited to comment and ask questions for clarification on the representation made by the Responsible Authority.
- (xv) The Licence Holder was invited to comment and ask questions for clarification on representation made by the Responsible Authority and did so accordingly.
- (xvi) The License Holder presented their case in defence of the application for the review of the premises licence, which they did so accordingly.
- (xvii) The Applicant was invited to comment and ask questions for clarification from the Licence Holder and did so accordingly.
- (xviii) The Responsible Authority was invited to comment and ask questions for clarification from the Licence Holder and did so accordingly.
- (xix) Members of the Panel were invited to comment and ask questions for clarification from the Licence Holder and did so accordingly.
- (xx) The Licensing Officer and the Legal Adviser were invited to comment and ask questions for clarification from the Licence Holder.
- (xxi) The Applicant was invited to make a closing statement on the case and did so accordingly.
- (xxii) The Responsible Authority was invited to make a closing statement on the case and did so accordingly.
- (xxiii) The Licence Holder was invited to make a closing statement in respect of the case and did so accordingly.

The Chairman thanked the participants for attending the hearing, advising that the Panel would retire to consider its decision in private and that the decision would be published in due course.

**DECISION OF THE LICENSING PANEL REGARDING THE
APPLICATION MADE BY HAMPSHIRE & ISLE OF WIGHT
CONSTABULARY FOR THE REVIEW OF THE PREMISES LICENCE
FOR COSTCUTTER 167 WEST STREET, FAREHAM, PO16 0EF.**

All parties will receive formal written confirmation of the decision and reasons.

The Panel determined that the hearing should proceed with the press and public excluded. This decision was made in accordance with the Licensing Act 2003 (Hearings) Regulations 2005. The papers contain

personal details and details of an ongoing police and trading standards investigation, and it was determined that the public interest in doing so outweighed the public interest in the hearing in accordance with Regulation 14.

The Panel has considered very carefully the application by Hampshire & Isle of Wight Constabulary for a review of a premises licence for Costcutter, 167 West Street, Fareham, PO16 0EF as submitted in the Licensing Officer's report.

It has given due regard to the Licensing Act 2003, statutory guidance and the Licensing Objectives and the adopted statement of Licensing Policy.

The Human Rights Act 1998, The Equality Act 2010 and The Crime and Disorder Act 1998 Section 17 have been considered whilst making the decision.

The Panel considered the application as submitted and heard representations from Sarah Mahy Licensing Officer, Police Alcohol Licensing Officer Colin Pollard for the police, a representative for Trading Standards and Mr Panchal on behalf of the premises licence holder. Mr Kapoor, the premises licence holder also replied to some questions.

Having heard all the evidence, and after much deliberation the Panel has determined to revoke the premises licence.

REASONS

The Panel noted that there had been a previous review of this licence for similar reasons and on that occasion the responsible authorities had not sought revocation choosing instead to attempt to educate the premises licence holder. The Panel was referred to paragraph 11.28 of the Statutory Guidance. This states that in cases where premises are being used to further crime, revocation should be seriously considered even on a first occasion. This is the second occasion.

Evidence of the police and Trading Standards regarding vapes seized at the premises was provided and the Panel was concerned that even after a significant seizure by trading standards and the education and guidance given, further alleged illicit items were later discovered.

The Panel additionally noted that conditions on the premises licence had been breached. Proper signage was not in place in accordance with the licence conditions, stock had clearly not been purchased from a reputable wholesaler by Mr Kapoor's own admission.

The Panel considered whether any alternative to revocation was appropriate. Taking no action was clearly not appropriate and would not address the concerns raised. Conditions had been modified at the previous review and this had not prevented a repeat. The Panel did not see any further conditions that would adequately address the issues

raised. Excluding an activity would not change anything as the main issue related to sales of vapes which is not a licensable activity.

Mr Panchal had suggested removal of the DPS and his replacement approved by the police with level 3 training and a suspension until that was in place. However, this would still leave Mr Kapoor in overall control and the period of suspension could not be specific as no alternative DPS had been proposed.

This left the Panel with little option, in view of the evidence and the statutory guidance, other than to revoke the licence. This is not done lightly but after much consideration and in view of the serious nature of the licensing breaches.

The Panel accepted that Mr Kapoor had taken steps to try to improve his position, but these were done largely after this review application was made and was too little too late.

The decision therefore is that the licence should be revoked due to the premises licence holder's failure to promote the licensing objectives of prevention of crime and disorder, public safety and protection of children from harm.

There is a right of appeal to the Magistrates' Court for all parties and formal written notification of the decision will set out that right in full.

RESOLVED that the Premises licence at Costcutter, 167 West Street, Fareham PO16 0EF be revoked.

(The meeting started at 10.08 am
and ended at 12.35 pm).

..... Chair

..... Date