

LICENSING SUB COMMITTEE

22 April 2024
10.00 am - 1.00 pm

Present: Councillors Griffin, McPherson and Pounds

Officers

Environmental Health and Licensing Support Team Leader: Luke Catchpole
Legal Adviser: Felicity Goldsbrough
Committee Manager: Sarah Steed
Meeting Producer: Chris Connor

Other Persons

Premises Licence Holder Representative: Jane Gilliead
Chief Immigration Officer, Immigration Compliance and Enforcement Team -
East of England: Mahesh Mehmi,
Senior Trading Standards Officer, Cambridgeshire & Peterborough Trading
Standards: Kirsty Draycott
Trainee Trading Standards Officer: Adam Wright
Environmental Health Officer representing the Licensing Authority: Alex Beebe

FOR THE INFORMATION OF THE COUNCIL

24/10/Lic Appointment of a Chair

Councillor McPherson was appointed as Chair for the meeting.

24/11/Lic Declarations of Interest

No declarations of interest were made.

24/12/Lic Meeting Procedure

All parties noted the procedure.

24/13/Lic Luxa Sparkles Review Hearing

The Environmental Health and Licensing Support Team Leader presented the report and outlined the application for the review of the Premises Licence of Luxa Sparkles, 103 Cherry Hinton Road, Cambridge.

The Environmental Health and Licensing Support Team Leader advised that on the 18 April 2024 an application was submitted to the Licensing Authority to change the Designated Premises Supervisor (DPS) to Luxa Shiny Mariflo with immediate effect. The Police were made aware of the application and had until 2 May 2024 to make any objections. In response to a Member question, advised that the Police had not raised any objections to date regarding the change to the DPS.

Chief Immigration Officer

Mr Mehmi made the following points:

- i. Noted the Sub Committee had read through the Committee report and would summarise their main points.
- ii. Advised that the Immigration Enforcement Team was an intelligence lead service and that there needed to be significant concern for them to take action.
- iii. In this case their concerns were:
 - a. the illegal worker who was arrested at the premises; and
 - b. the fact that the illegal worker was the only person in charge of the sale of alcohol and other illegal items at the premises.
- iv. Their Team received an allegation of an illegal worker being employed at the premises. An Enforcement Team visited the premises on 20 November 2023. One person was identified who did not have permission to work in the UK. Further information was contained within the agenda pack.
- v. The DPS in charge at the time of the enforcement visit had not undertaken right to work checks.
- vi. Referred to the Trading Standards report and queried what systems had been put in place regarding the sale of alcohol and other items to prevent crime.
- vii. Commented that verification of a person's right to work in the UK could be done relatively quickly.
- viii. Had concerns around how the business was being run following the Enforcement Team's visit in November. A person without the right to work in the UK was found at the business; although a no action notice was issued, further representations were made by Trading Standards.
- ix. The Licensing Objective to Protect Children from Harm had been undermined as the illegal worker who was in charge of the premises had

not received training on age restricted products and sold a vape to an underage individual during a test purchase. (Referred to the Trading Standards Officer's witness statement at pages 12 and 13 of the agenda).

- x. Noted on a previous visit undertaken by Trading Standards in August 2023, that a similar person who fitted the description of the person encountered by the Immigration Enforcement Team at their visit in November was found to have served an underage person.
- xi. Asked for the Premises Licence to be revoked; did not feel other options available were sufficient to act as a deterrent.

In response to a member's question advised that they believed the statement made on page 23 of the agenda pack that the worker had moved into the accommodation above the shop 20 days ago was still the case.

Senior Trading Standards Officer

Kirsty Draycott made the following points:

- i. In 2022 advice was sent to the shop known as Sparkles Ahead following a test purchase exercise where a can of San Miguel was sold to a 15-year-old volunteer.
- ii. In November 2022 interviews were conducted with the then DPS and their husband and cautions were accepted.
- iii. An advice letter was sent in February 2023 in relation to underage sales. A further alcohol test purchase was carried out and a 14-year-old volunteer was refused the sale of alcohol.
- iv. A complaint was made to them in March 2023 concerning the sale of a vape to an underage person. A test purchase was undertaken in August 2023 where a 16-year-old volunteer was sold a vape believed to be the person the Immigration Enforcement Team saw when they undertook their enforcement visit in November 2023.
- v. The DPS and their husband were interviewed regarding the sale of the vape; they gave conflicting information regarding the immigration status of the shop assistant. The DPS advised during the interview that they had left the shop assistant in charge of the premises whilst they attended a beauty appointment.
- vi. A complaint was received in October 2023 from a parent alleging that their 16-year-old had said that they had regularly purchased alcohol from

- the premises. They requested to see the refusals register and CCTV for the time of the alleged sale.
- vii. They had referred the issue regarding the sales assistant to the Immigration Enforcement Team.
 - viii. A complaint was received in late October from a parent alleging that their (underage) daughter admitted to purchasing alcohol from the premises.
 - ix. Chased for the CCTV records for the first complaint reported in October 2023 but this was not provided.
 - x. A complaint was made in November 2023 from a parent alleging their 16-year-old had bought hand rolling tobacco from the premises.
 - xi. They received further allegations that the premises was selling illegal vapes; an advice letter was sent setting out the rules around vapes and how they could comply.
 - xii. In February 2024 they carried out an unannounced inspection in relation to the illegal vapes. The shop assistant present was the same person who was present at the inspection in August 2023. The inspection was carried out in the afternoon. There were a number of teenagers entering the shop trying to buy age restricted items. The shop assistant struggled to explain why the sales were refused.
 - xiii. Trading Standards had recently prosecuted Luxshinii Ltd in relation to the vape sale which took place in August 2023.
 - xiv. Expressed concern that the licensing objectives particularly the protection of children from harm and crime and disorder were not being upheld.

In response to a member's question advised that the unannounced visit to the premises was undertaken on 12 February 2024. Also advised that Trading Standards did not have the right to be able to object to a transfer of premises licence application.

In response to a question from the Environmental Health Officer advised that the limited company pleaded guilty to the vape sale offence in August 2023 and were subject to a £1000 fine, £250 costs and £400 victim surcharge.

In response to a question from the Premises Agent advised that they did not have information to hand regarding historical complaints, but they had become involved in 2022 regarding alleged underage sales.

Environmental Health Officer

Alex Beebe made the following points:

- i. A number of complaints had been made to the Licensing Authority. A representation on behalf of the Licensing Authority was submitted as part of the hearing and further information could be found on pages 71 – 82 of the agenda pack.
- ii. Summarised investigations conducted by the Licensing Authority from May 2018 in relation to alleged underage sales of alcohol and other age restricted products and alleged sales of alcohol to intoxicated customers.
- iii. Noted that although there was no direct evidence of offences committed under the Licensing Act 2003; there had been 6 similar complaints made against the business over the last 6 years. No other off-licence premises had received a similar level of complaints.
- iv. Visits to the premises had raised a number of concerns including staff training for which the DPS and Premises Licence Holder at the time of the complaints was responsible. Recommendations made by the Licensing Authority and Police did not appear to have been implemented. The Licence Holder at the time complaints did not appear to be upholding the Licensing Objectives.
- v. Referred to page 27 of the agenda pack where reference was made to offering alcohol on credit. Noted that although this was not illegal it may put vulnerable people at risk, being unable to pay the debt off.

In response to questions from the Premises Agent the Environmental Health Officer said the following:

- i. Noted that the receipts for items sold on credit was contained within the Immigration Officer's submission.
- ii. Visits by the Licensing Authority and the Police to the premises were undertaken following complaints made by members of the public. Letters of advice were also sent. No formal action was taken due to there being insufficient evidence of any offences taking place.
- iii. Complaints had been made from a variety of sources including a member of staff from a local sixth form college and parents.
- iv. Residents had made complaints regarding alleged sales of alcohol to intoxicated customers. There were no witnesses to these alleged sales and the complaints centred around noise complaints from people congregating in the local area.

Mr Mariflo commented in relation to the alleged sale of alcohol to a student that he recalled this matter and had provided CCTV footage of the shop and till receipts to the Licensing Authority. No sale of alcohol to the student had taken

place. People had said that the alcohol had been sold by Luxa Sparkles to the student, but this was not the case.

Luxa Mariflo commented that when she was a student at one of the local colleges, students would say they had bought alcohol from the Premises but this untrue and not the case.

Premises Agent

Jane Gillead made the following points:

- i. It was a family business which had been licenced since 2007. Problems appeared to arise from 2022. She had become involved when the previous DPS was responsible for the premises and had looked at how the licence could be protected going forwards.
- ii. Noted the Trading Standards prosecution and that the company had pleaded guilty to the charges brought.
- iii. Noted and accepted the immigration issues also referred to.
- iv. The previous DPS had stepped away from the business. A new company had been put in place. Luxa Mariflo had become the new DPS and undertaken training in the last couple of weeks.
- v. Additional conditions suggested by Trading Standards had been put in place.
- vi. Age related checks were undertaken, nitrous oxide was not being sold, full training was in place and right to work checks would be undertaken. Luxa Mariflo would be taking the business forward.

In response to Member questions Luxa Mariflo made the following comments:

- i. Had not been involved with the business up until now. The previous DPS had a medical condition and problems with the business coincided with this.
- ii. All invoices now went through them to ensure there was nothing in the premises which shouldn't be there. The tobacco bought without duty paid had been bought coming back from holiday for personal use (as gift for father).
- iii. Now the premises was under new management hoped the premise's reputation would improve moving forward.
- iv. Had had no issues refusing sales to underage children and had no issues in doing this. As they had grown up in the area, most of the community was known to them. If any staff had any doubts about making a sale these would be referred to them to make the decision. They would be working at the premises every day.

- v. Current employees included Luxa Mariflo, Mr Mariflo and her uncle, who was also a personal licence holder for another premises.

In response to Member questions Mr Mariflo made the following comments:

- i. Was working in the premises currently but once they recruited, would undertake the buying of stock etc.
- ii. Took the apartment above the premises for staff, would sometimes stay over if they worked late. One room was rented out.
- iii. The gentleman referred to in the Immigration Officer's representation called him as he needed a place to stay. Only became aware of the gentleman's medical issues once he was staying with him. The medical advice said not to leave the gentleman alone and he brought him to the shop to meet people and practise his English.
- iv. The incident where the gentleman was left in the shop on his own happened when he was in Sri Lanka and the previous DPS left the shop to collect his children. He was just trying to help the gentleman. He did not pay him, and the gentleman did not give him any money for looking after him.
- v. The gentleman usually stayed in their house when he was there. When he visited Sri Lanka, the gentleman stayed in a room above the premises as it was not culturally appropriate for him to stay in their house when his wife was alone.
- vi. In future right to work checks would be carried out.

Luxa Mariflo made the following points:

- i. Was unaware of the situation at the time and would not have allowed the gentleman to undertake transactions at the till. Would not allow this going forward.
- ii. Advised that her father did not understand the question asked regarding the gentlemen's immigration status and had been asked by relatives in Sri Lanka to help him.

Jane Gillead added that any staff joining the business would receive full training before they undertook any duties within the shop.

In response to a question from the Chair about any further objections or comments from Officers in attendance the Chief Immigration Officer commented that they wanted to ensure that the Licensing Objectives were upheld particularly the prevention of crime and disorder and the protection of children from harm.

Luxa Mariflo wanted to add in relation to comments made about upholding the Licensing Objectives (prevention of crime and disorder and protection of children from harm) that this was an important issue and one she was acutely aware of since she had a younger sister. She would ensure these are regular checked and upheld.

The Environmental Health and Licensing Support Team Leader reminded the Sub Committee of the options available to them as set out in paragraph 5.2 of the officer's report namely:

- (a) to leave the licence as it is;
- (b) to modify the conditions of the licence;
- (c) to exclude a licensable activity from the scope of the licence;
- (d) to remove the designated premises supervisor;
- (e) to suspend the licence for a period not exceeding three months;
- (f) to revoke the licence.

and for this purpose, the conditions of the licence are modified if any of them is altered or omitted or any new condition is added (Licensing Act 2003 section 52 (4)).

The meeting adjourned for 20 minutes and then reconvened for members to ask some further questions to assist with their deliberations.

In response to member questions Luxa Mariflo made the following comments:

- i. The premises was a general store and in addition to selling alcohol and vapes other items included groceries, international items, dairy, fruit and vegetables.
- ii. Nitrous Oxide was no longer sold. It had been returned to the seller.
- iii. The sale of alcohol and vapes was a large part of the store's income.
- iv. CCTV was present in the premises and operational all requests for copies of CCTV would go through Luxa. Luxa had access to the CCTV footage on her phone. There were 2 CCTV cameras one customer facing camera and one facing staff, which ran 24 hours a day. There were also internal cameras to enable staff to view customers at the rear of the shop. The contact details displayed outside the shop for queries relating to CCTV would be updated after the meeting.

The Senior Trading Standards Officer confirmed that they had seized all illegal vapes which were at the premises. Further work was dependent on the outcome of their prosecution case and the Licensing Sub Committee decision.

Members withdrew at 11:29am to consider their decision. Members received legal advice on the wording of the decision.

Decision

The Licensing Sub Committee resolved to leave the licence as it is and recommended that the Licensing Authority undertook an inspection within 6 months of the date of the decision.

The Licensing Sub Committee's reasons for reaching the decision are as follows:

- i. There were no objections to the new Premises Licence Holder and no evidence she would not correctly fulfil the role in accordance with the Licensing Objectives.
- ii. The Sub Committee considered the history of the premises and the fact the Premises Licence Holder is new to the licensing trade.
- iii. The Sub Committee considered Miss Mariflo's commitment to uphold the Licensing objectives and has decided to leave the licence as it is with the above support.

The meeting ended at 1.00 pm

CHAIR