



**CAMBRIDGE
CITY COUNCIL**

RECORD OF DECISION

To be completed and signed before Members return to open session to announce their decision.

**RECORD OF DECISION: REVIEW APPLICATION UNDER LICENSING
ACT 2003**

Licensing Sub-Committee
Date: 21st October 2024

Members:

1. Cllr McPherson (Chair)
2. Cllr Griffin
3. Cllr Clough

To consider the review application submitted by Trading Standards in regards to the premises licence of Luxa Sparkles, 103 Cherry Hinton Road, Cambridge, CB1 7BS, and the Designated Premises Supervisor (DPS). The premises is now called Premier Cambridge Convenience Store.

We heard representations from the following persons:

1. The Applicants: (1) Mr/s Kirsty Draycott (Trading Standards);
2. Mr Nadarajah Sasikumar, Premises Licence Holder & Designated Premises Supervisor
3. The Applicant's representative: Ms Jane Gillead, Licensing Consultant, Emag Licensing Services.
4. Interested Parties; (1) Mr/s Alex Beebe (Team Manager Cambridge City Council Licensing Authority) (2) PC446 Clare Metcalfe -Licensing Officer Cambridgeshire Constabulary

The reason you appeared before the Sub-Committee:

Cambridge City Council as the Licensing Authority has received an Application to review a premises Licence from Trading Standards in their capacity as a Responsible Authority under the Licensing Act 2003 ("the Act") for Premises Licence CCC/PRECAM000531; Premier Cambridge Convenience Store (formerly known as Luxa Sparkles) , 103 Cherry Hinton Road, Cambridge CB1 7BS

The Application was received on 2 September 2024. As required under the Licensing Act 2003, notice of the application was advertised on the Council's website and blue notices were displayed at or near the premises from 2 September 2024. The 28 days consultation period ended on 30 September 2024.

On the 23rd September 2024, an applications was received to transfer the premises licence to Mr Nadarajah Sasikumar, to make Mr Sasikumar the Designated Premises Supervisor and also to change the name of the premises to Premier Cambridge Convenience Store. The application took immediate effect. Mr Nadarajah Sasikumar, Premises Licence Holder & Designated Premises Supervisor confirmed that he did not take any responsibility, or have effective control of the Premises until 10 October 2024, despite being the Premises Licence Holder & Designated Premises Supervisor. The Sub Committee had to determine the Review application.

In making our decision we considered the following:

Statutory provisions (Licensing Act 2003)
Statutory Section 182 Guidance
Cambridge City Council's Statement of Licensing Policy
The Agenda Papers enclosing Reports
Oral submissions from the parties
Written representations from parties not in attendance
Responses to questions asked by the Members

Decision:

Having listened to all the evidence and considered the above the Members determined to **SUSPEND** the Premises Licence for a period of three (3) months from the date of service of this decision, and to modify the conditions of the Premises Licence as annexed to this decision.

The Licensing Sub Committee additionally recommends that the Licensing Authority provides the following support:

i. That a licence inspection is undertaken 6 months after the date that the suspension period is completed.

We found the following facts:

- That the Premises is in the process of being sold to Mr Nadarajah Sasikumar but it is not expected to complete for at least 2 -3 months (according to Ms Jane Gilead) with the sale being contingent on a Premises Licence existing for the Premises. This was confirmed by the Respondent and his agent in questioning and in both their submissions.
- That the Premises License was transferred with immediate effect pursuant upon s41 Licensing Act 2003 from Akshayam Limited, who had held the licence from 4 April 2024 to 23 September 2024. From that point Mr Nadarajah Sasikumar had sole control .
- Prior to that, the premises had been granted a premises licence on 10th December 2007. Mrs Priyamwatha Mariflo had been the premises licence holder from this date until the 4th April 2024 after which the licence was subsequently transferred to Akshayam Limited. The Designated Premises Supervisor (DPS) was also changed at approximately this date; Mrs Priyamwatha Mariflo's daughter, Luxa Shiny Mariflo, became the new DPS. These changes followed on from and occurred because of a Review Application submitted by Immigration Enforcement Alcohol Licensing at the Home Office, which was heard by the Licensing Sub-Committee on 22nd April 2024. The April Sub-Committee had accepted submissions from Luxa Shiny Sparkles that she understood her responsibilities as DPR and would ensure that all conditions attached to the license were met along with the licensing objectives. The April Sub-Committee decided to leave the licence in place but that a licence inspection be undertaken within 6 months of the date of their decision.
- The Sub-Committee accepted the applicant's evidence, summarised at para 3.2 of the Agenda Licensing Officer's Report that there had been a significant history of complaints associated with the premises, the sale of alcohol to under-age customers, the failure of an effective age related identification process, and at para 3.4 that a test purchasing exercise was carried out by Trading Standards on 12th August 2024, which saw alcohol sold to a 16 year old volunteer. These incidents occurred before the transfer of the premises licence Mr Nadarajah Sasikumar on 23 September 2024, but the reputation of the premises as a source of alcohol sales to under-age customers has become entrenched and established in the community and with the under-age alcohol consumers 'group'.
- Of the Responsible Authority's, only the Police and the Home Office / Immigration Enforcement Team have the power to object to an Immediate Transfer, within 14 days of notification, and they lodged no

objection during the relevant time-frame (being 23 September – 7 October 2024).

- The Sub-Committee accepted Mr Nadarajah Sasikumar's evidence that he had had no direct business, employment, social or familial link with the previous owner or the business, or Mrs Priyamwatha Mariflo, or her daughter, Luxa Shiny Mariflo, or husband Mr Mariflo Martyanayagam Premise and that he is not linked to any breaches of conditions or the licensing objectives that have occurred prior to 23 September 2024.
- Mr Nadarajah Sasikumar is managing the Premises and has rebranded the Premises as Premier Cambridge Convenience Store, which will be the focus of his business attention. He took immediate control on 23 September 2024 but confirmed that he had nothing to do with the running or management of the Premises until 10 October 2024. This surprised the sub-committee and this evidence was repeated by his agent Jane Gilead.
- Mr Nadarajah Sasikumar has said that he will provides an entirely new management team. Some of the staff temporarily remain from the previous regime. Mr Nadarajah Sasikumar said that new working practices and standards would be in place but he admitted that he was unable to locate the electronic refusals registrar at the property, which his agent had installed and trained the previous regime in, following the last Review decision in April 2024.
- Mr Nadarajah Sasikumar staff will be fully trained and experienced
- The Sub-Committee accepted Mr Nadarajah Sasikumar's evidence that he has never been sanctioned by a licensing authority.
- Mr Nadarajah Sasikumar has voluntarily agreed additional conditions proposed by Alex Beebe of Cambridge City Council Environmental Health Team. These conditions are annexed to this decision.

We did not consider the following matters to be relevant:

- The commercial interests of the former and current Premises Licence Holder – these were not relevant to the Licensing Objectives.
- The specific circumstances of the previous sales of alcohol to under age customers – it was accepted that under age sales had taken place when the previous DPS and Premises Licence holder were in charge.
- Mrs Priyamwatha Mariflo, or her daughter, Luxa Shiny Mariflo, or husband Mr Mariflo Martyanayagam's personal circumstances – these were not relevant to the Licensing Objectives.

Our reasons for reaching the decision are as follows:

Mr Nadarajah Sasikumar is managing the Premises. He took immediate control on 23 September 2024 but confirmed that he had done nothing and had not been involved with the running or management of the Premises until 10 October 2024. This surprised the sub-committee, given there was a void of management at a premises which has an acknowledge reputation for supply of under-age alcohol. This evidence was repeated by his agent Jane Gillead. It is a concern that the location of the 'refusals book' for sales to under-age customers was unknown by Mr Sasikumar.

In terms of Members' options. Clearly, it would not be appropriate and proportionate to:

- Take no action at all – the Licensing Authority takes under-age sales of alcohol particularly seriously in-line with the Section 182 guidance.
- Exclude a Licensable Activity – this would have had no impact.
- Remove the DPS – the DPS at the time of the under-age sales of alcohol had already been replaced and the Committee did not think it would be appropriate to remove the current DPS
- Revoke the Licence – Members considered revoking the Premises Licence however, Members noted that the Police did not object to the Transfer of the Licence to Mr Nadarajah Sasikumar's.
- The Applicant for Review (Trading Standard) and the Police indicated that having heard all the evidence, they would support a suspension of the Premises Licence pending the rebranding of the business and provision of an entirely new management team and staff taking over the operation of the Premises, with new working practices and standards, along with full training for staff coupled with the imposition of robust conditions regarding sale of alcohol to under age customers to enable future checking and monitoring to take place.

Accordingly, Members decided to:

- (1) Suspend the Premises Licence for a period of three (3) months – Members wish to be clear to the current, and any prospective Premises Licence Holders that under-age sales of alcohol are against the law, unacceptable, and will not be tolerated in Cambridge. Members imposed the maximum suspension available to them to send a clear message to all of the above, that should further under age sales be discovered at this Premises, revocation will almost certainly result. Members felt it was irresponsible that Mr Nadarajah Sasikumar took no part in running the business from 23 September 2024 to 10 October 2024 when he was the Premises Licence Holder. It was disappointing that Mr Nadarajah Sasikumar had not had sight of the Refusals Book, not could locate where it was kept either on the premises or electronically.

- (2) To add a series of conditions to the Premises Licence dealing with the genesis of the review, namely that the Premises has currently become a focus for under-age sale of alcohol, irrespective of the identity of the management / premises licence holder, as it was permitted by the former management. Members felt that it was appropriate and proportionate to add these conditions to promote the Licensing Objective of the Protection of Children from Harm.

The Conditions to be added to the Premises Licence are as annexed to this Record of Decision:

Signed

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Dated

21/10/24

The applicant or those who made a relevant representation has the right of appeal to a Magistrates Court within 21 days from the date of this decision notice by contacting:
Cambridgeshire Magistrates Court, The Court House, Bridge Street, Peterborough, PE1 1ED.

Suggested conditions – Luxa Sparkles

1. High Definition CCTV shall be installed, operated and maintained, at all times that the premises are open for licensable activities or customers are on the premises and;
 - a. shall be checked every two weeks to ensure that the system is working properly and that the date and time are correct. A record of these checks, showing the date and name of the person checking, shall be kept and made available to the Police or authorised Council officers on request.
 - b. at least one camera will show a close-up of the entrance/entrances to the premises, to capture a clear, full length image of anyone entering.
 - c. shall cover any internal or external area of the premises where licensable activities take place.
 - d. recordings shall be in real time and stored for a minimum period of 56 days with date and time stamping.
 - e. footage shall be provided to the Police or authorised Council officer within 24 hours of a request.
 - f. a staff member from the premises that is conversant with the operation of the CCTV system shall be on the premises at all times. This staff member will be able to show Police or authorised officers of the Licensing Authority recent data footage with the minimum of delay when requested. This data or footage reproduction shall be almost instantaneous.
2. Appropriate signage shall be displayed in prominent positions, informing customers they are being recorded on CCTV.
3. All staff responsible for selling alcohol shall receive relevant training before making any unsupervised sales. The training shall include:
 - the Licensing Act 2003 in terms of the licensing objectives and offences committed under the Act;
 - the conditions of the Premises Licence;
 - the sale of age-restricted products.

This training will be refreshed at least every six months. Staff shall sign to confirm that they have received and understood the training. Written records of this training shall be retained and made available to the Police or authorised officers of the Licensing Authority upon request.

Suggested conditions – Luxa Sparkles

Age-restricted products training shall cover the following steps: the assessment of age; how and when to challenge for proof of age; acceptable proof of age and how to check; and recording refusals.

All staff shall be trained in how to identify drunk or drug impaired customers. This training shall be repeated at least biannually. Staff shall sign to confirm that they have received and understood the training. Written records of this training shall be retained and made available to the Police or authorised officers of the Licensing Authority upon request.

4. A daily incident log (electric or paper based) shall be kept at the Premises and made available on request to an authorised officer of the Council or the Police or the Fire Service which shall record the following:

- (a) all crimes reported to the venue
- (b) all ejection of patrons
- (c) any complaints received
- (d) any incidents of disorder
- (e) any faults in the CCTV system
- (f) any visit by a relevant authority or emergency service.

The incident record shall be kept on the premises and be available for inspection by the Police or authorised officers of the Licensing Authority at all times the premises is open.

A record of complaints shall be maintained on the premises to record details of any complaints received. The information to be recorded shall include the date and time of complaint and subsequent remedial action undertaken and (where disclosed) the complainant's name and location.

The record of complaints shall be kept for 12 months from the date of the last record made and shall be available for inspection on demand by the Police or authorised officers of the Licensing Authority at all times the premises are open.

5. The Licence Holder shall require staff to note any refusals in a refusals log. The refusals log shall record the date and time of the refusal; the name of the staff member refusing; and the reason for refusal. It must be checked and signed monthly by the designated premises supervisor. The refusals log shall be made available for inspection upon request by the Licensing Team, Police or Trading Standards.

Suggested conditions – Luxa Sparkles

6. The Premises shall operate a 'Challenge 25' age-restricted sales policy and promote it through the prominent display of posters.
7. All spirits shall be stored and displayed behind the service counter, so not available for self-selection.
8. All alcohol will be displayed in direct line of site from the counter/till area.
9. The premises licence holder or appointed person in charge will ensure that no alcohol, tobacco or e-cigarettes (vapes) will ever be purchased from sellers calling at the premises.
10. Till prompts will be used for any age restricted products.
11. Audible alarm shall be fitted so that a member of staff is alerted when the entrance door is opened.
12. The licence holder will arrange for an independent audit company to undertake test purchasing of age-restricted products at least every 3 months, and provide the results to Trading Standards by e-mail.

