

CENTRAL BEDFORDSHIRE COUNCIL

Record of a **LICENSING SUB-COMMITTEE** hearing convened under the Licensing Act 2003 (Hearings) Regulations held in the Council Chamber, Leighton-Linslade Town Council, The White House, Hockliffe Street, Leighton Buzzard, LU7 1HD on Wednesday, 20 September 2017

LS/17/1. **Licensing Sub-Committee Composition**

Cllrs: T Nicols (Chairman)
K M Collins
T Swain

LS/17/2. **Introductions**

The Chairman introduced himself. The other attendees then introduced themselves.

LS/17/3. **Apologies for Absence**

None.

LS/17/4. **Minutes**

RESOLVED

that the minutes of the hearing of the Licensing Sub-Committee held on 28 July 2017 be confirmed and signed by the Chairman as a correct record.

LS/17/5. **Members' Interests**

None declared.

LS/17/6. **Name of Former Premises Licence Holder and Designated Premises Supervisor**

Mr Ali Iraj Azhir.

LS/17/7. **Premises Address**

Buzz Wines Ltd, 17 North Street, Leighton Buzzard, Bedfordshire, LU7 1EF.

LS/17/8. **Names of Parties in Attendance**

Cllr K M Collins
Cllr T Nicols
Cllr T Swain

Mrs I Best – Senior Enforcement Officer (Trading Standards) (Central Bedfordshire Council)
Mrs M James – Principal Public Protection Officer (Licensing) (Central Bedfordshire Council)
Mr L Manning – Committee Services Officer (Central Bedfordshire Council)
Ms S McIntyre – Senior Solicitor, Regulation and Litigation (LGSS Law Ltd for Central Bedfordshire Council)

Acting Sergeant L Mitchell – Licensing Officer (Bedfordshire Police)

Mr S Muthaiya
Mrs K Natkunam – Premises Licence Holder

LS/17/9. **Procedure for the Hearing of Applications under The Licensing Act 2003**

The procedure for the hearing of applications made under the Licensing Act 2003 was introduced by the Chairman and noted.

LS/17/10. **The Four Licensing Objectives**

The four Licensing Objectives were noted.

LS/17/11. **Reviews - Extract from Revised Guidance**

Chapter 11 of the revised guidance (dated April 2017) issued under Section 182 of the Licensing Act 2003 which provided advice relating to applications for the review of a premises licence was noted.

LS/17/12. **Application for the Review of a Premises Licence under The Licensing Act 2003 at Buzz Wine, 17 North Street, Leighton Buzzard, Bedfordshire**

The Sub-Committee considered a report from the Head of Public Protection which sought Members' determination an application by Central Bedfordshire Council's Trading Standards for the review of the premises licence for Buzz Wine at 17 North Street, Leighton Buzzard, Bedfordshire.

The Principal Public Protection Officer (Licensing) reminded the Sub-Committee that the review had been sought against Mr A Azhir, the former Premises Licence Holder (PLH) and (at that time) Designated Premises Supervisor (DPS) of the premises. The Sub-Committee had met on 28 July

2017 to consider the application for the review but the meeting had been adjourned for the reasons set out in the minutes.

The Principal Public Protection Officer (Licensing) now advised Members that Mr Azhir was no longer DPS for the premises, this function having recently been transferred to Mrs Natkunam, the current Premises Licence Holder for Buzz Wine. Based on this development, Mr Azhir had informed the Council that he had no longer had any connection with the business.

In response to a query by the Chairman, the Senior Solicitor, Regulation and Litigation stated that, whilst any previous alleged actions by Mr Azhir could still be relevant to the review and could not be ignored, they had not occurred under the ownership of Mrs Natkunam and she could address any of the issues which had arisen.

In response to a request by the Chairman the Acting Sergeant, Bedfordshire Police provided a synopsis of the events leading to the current situation from the police perspective. He referred to the recent receipt of an application to vary the DPS for the premises and stated that he had met with both Mrs Natkunam and her husband, Mr Muthaiya, and had no representations to make against the former becoming DPS for the premises. The Acting Sergeant then referred to the evidence presented by the police as appendices to the report of the Head of Public protection. He advised that there were two issues of concern. The first regarding the sale of alcohol to children under the age of 18 for which Mr Azhir had been successfully prosecuted at Luton Magistrates' Court. The second related to the supply of alcohol to street drinkers resulting in incidents of anti-social behaviour in the locality of the shop. The Acting Sergeant referred Members in particular to the large amount of evidence in the form of witness statements which formed appendices to the report of the Head of Public Protection. He stressed that all of the alleged activity had taken place prior to Mrs Natkuman assuming the roles of DLH/DPS. Nonetheless he also stressed the importance of adding at least some of the five voluntary conditions (set out in Appendix B to the report) to the premises licence which had originally been proposed to, and then rejected by, Mr Azhir. Such conditions had included no sales of single cans or bottles of beer, lager or cider and no sale of super strength beer, lager or cider 6.5% AB or above as these were often sought by street drinkers. However, the Acting Sergeant acknowledged that a significant number of single cans or bottles were also bought by ordinary customers. On this basis he stated that adoption of the following voluntary conditions would be acceptable:

- Alcohol not to be supplied on credit (tick) basis or via prepayment.
- A refusals log to be kept and maintained and to be produced to the police on request.
- CCTV to be installed and maintained to an acceptable standard with the footage to be retained for a minimum of 30 days and made available to the police on request.

The meeting noted that the proposal was also acceptable to Trading Standards and that both the police and Trading Standards did not wish to pursue any further review of the premises licence.

In response to a query by the Chairman as to the sale of alcohol at nearby supermarkets the Acting Sergeant stated that the nearby Tesco's did not generally sell single cans of super strength alcohol. Alcohol was sold in 4-packs which was quite expensive. However, it was acknowledged that single cans or bottles of alcohol could be bought from shops within walking distance of Buzz Wine including from the shop owned by Mr Muthaiya, who was Mrs Natkunam's husband.

Mrs Natkunam apologised for not attending the Licensing Sub-Committee on 28 July 2017. She then stated that she had been unaware of the problems described and explained that Mr Azhir had remained as DPS for the period after she had purchased the shop to cover whilst she and her husband were on holiday but then, subsequently, as a result of the application to vary the DPS initially being incorrect. Mrs Natkunam explained that as her husband's shop was next door to her own they would be able to assist each other.

In response to a question from the Chairman regarding the sale of single cans Mrs Natkunam stated that some customers purchased single cans of alcohol together with other goods after work. She added that if she did not sell single cans her customers would simply take their business elsewhere. In response to a query by a Sub-Committee member she stated that multipacks of alcohol were not 'broken' to provide single cans as this practice was illegal.

With regard to the particular circumstances to be found in Leighton Buzzard and the recent change in both Premises Licence Holder and Designated Premises Supervisor the Chairman sought the views of the police and Council officers on what, if any, conditions were felt by them to be necessary. The Chairman emphasised that he did not wish to place one business (i.e. Buzz Wine) in a prejudicial position by the imposition of conditions that were not applied elsewhere. He sought clarification regarding the possible restriction of the sale of single cans or bottles of super strength alcohol. In response the Senior Enforcement Officer (Trading Standards) suggested the possible introduction of a 12 month trial whilst the Senior Solicitor explained that suggested a condition with a review. Both the Senior Solicitor and the police felt that it was possible to impose a condition restricting the sale of super strength alcohol with a subsequent review. It was noted that Bedford Borough Council exercised control on the sale of single cans and bottles of super strength alcohol of 6.5% AB or above. However, the Chairman expressed the view that enforcement would be complicated and the application unrealistic. A Member of the Sub-Committee also raised concern that it would be unfair to prevent the shop from selling this product when it would be available in other local shops. Another Member reminded the hearing that the high alcoholic strength could be found in many expensive, premium brands which, because of their cost, were unlikely to be purchased by street drinkers.

With regard to the sale of alcohol to street drinkers in April 2017 Mrs Natkunam responded that the police had given her photographs of street drinkers so she and her husband were now aware of when they should refuse sales. The Senior Enforcement Officer (Trading Standards) commented that there was no evidence that other shops had sold alcohol to street drinkers. Mrs Natkunam emphasised that both she and her husband would comply with all legal requirements. In response to a query by the Acting Sergeant Mrs

Natkunam stated that neither she nor her husband allowed alcohol to be purchased by street drinkers on a pre-payment basis.

Consideration was given to possible conditions and the issues of enforceability and accountability.

The being no further statements, comments or questions the Sub-Committee adjourned at 10.45 a.m. in private to make its decision. The Council's legal representative remained with Members in the meeting room to advise as necessary. The hearing reconvened at 11.28 a.m. when the Sub-Committee had finished its deliberations and could announce its decision.

Decision

That the application for the review of the Premises Licence for Buzz Wine, 17 North Street, Leighton Buzzard, Bedfordshire be upheld in part and the Licence modified as follows:

- 1 Alcohol not to be supplied on an informal credit basis or informal prepayment basis meaning to buy something with the agreement to pay later or to put down money to collect alcohol later similar to a tab (also known as selling on tick).
- 2 The condition in Annex 2 e) 5 be amended so that it reads as follows: 'A documented refusals book or electronic log must be kept and maintained. The log should be of all refusals. The book or log must be checked and signed weekly by the DPS or Premises Licence Holder. The check should include making sure staff are using the system and identifying any issues or training needs through lack of entries. The book or log must be made available to police or Council enforcement officers on request and within 24 hours of that request.'
- 3 CCTV to be installed and maintained to an acceptable standard with the footage to be retained for a minimum of 30 days and made available to the police or Council enforcement officers on request and within 24 hours of the request.

In coming to its decision the Sub-Committee had taken into account:

- The Licensing Act 2003
- The Secretary of State's Guidance issued under Section 182 of the Licensing Act 2003
- Central Bedfordshire Council's Licensing Policy
- The merits of the application and the representations (including supporting information) presented by all parties.

Reasons for the Decision

The reason for the Sub-Committee's decision was as follows:

- Prevention of Public Nuisance

The Premises Licence Holder/Designated Premises Supervisor was informed that failure to comply with the terms and conditions of the Licence was a criminal offence and upon conviction would result in a fine of up to £20,000 or up to six months imprisonment or both.

The Premises Licence Holder/Designated Premises Supervisor was informed that should she be dissatisfied with the decision or the imposition of any condition or restriction she had the right of appeal to the Magistrates court within 21 days of the date on which she was notified of the decision.

(Note: The meeting commenced at 10.00 a.m. and concluded at 11.36 a.m.)