

**RBWM LICENSING & PUBLIC SPACE PROTECTION ORDER
SUB-COMMITTEE**

13 July 2023 10.00 – Town Hall, Maidenhead

**CONSIDERATION OF AN APPLICATION TO REVIEW A
PREMISES LICENCE UNDER s51 of the LICENSING ACT 2003**

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Sub-Committee Members: Cllr Brar, Cllr Douglas, Cllr Knowles

Officer reporting: Greg Nelson, Trading Standards & Licensing Manager

Contents

1. The Application
2. Previous Hearing
3. The Application Process
4. Licensing Authorities Acting as Responsible Authorities
5. Outline of the Application
6. Relevant Representations Received
7. Subsequent Events
8. Matters to Consider
9. RBWM Statement of Licensing Policy 2021-2026
10. Revised Guidance issued under section 182 of the Licensing Act 2003
11. Conclusion

1. The Application

Applicant: Mr Craig Hawkings, RBWM Licensing Team Leader for RBWM Licensing, acting as a responsible authority

Application To review a premises licence

Premises Licence: Jagz Ltd trading as Drinks and Flair, Station Hill, Ascot, SL5 9EG

Type of Premises: Licenced bar and events venue

The current premises licence is **Appendix A**

The application to review this premises licence is **Appendix B**

2. Previous Hearing

A hearing to determine this application before a Licensing and Public Space Protection Order Sub Committee (LPSPOSC) originally took place on 23 January 2023. At that hearing the premises licence holder was represented by Ms C Curtis and Mr P Hayward, minority directors of Jagz Ltd at that time, and they requested an adjournment of the proceedings as they were seeking to fully acquire the business in question.

A licensing authority is permitted to adjourn a hearing where it considers this to be necessary for its consideration of any representations or notice made by a party to the hearing.

The Chair of the LPSPOSC on 23 January stated that they agreed to adjourn the hearing until a later date which would be notified forthwith. This was to allow the new minority shareholders to complete the acquisition of the business in question and fulfil the legal processes involved. The other reason was because Ms Natasha Tah, the director and majority shareholder of the company at that time, was not present, and the LPSPOSC wished for her to attend a future meeting to answer to the charges that the licensing conditions had been breached at the premises, and to give her account of events.

When a hearing is adjourned the parties are to be notified forthwith of the date on which the hearing is to be reconvened. On 27 January the parties to these proceedings were notified that the new hearing date was Thursday 9 March 2023 at 10.30. This was subsequently moved to Monday 20 March, with all parties being properly notified.

For reasons set out below in Part 7 Subsequent Events, the hearing was subsequently postponed until this hearing, Thursday 13 July 2023, with all parties having been properly notified.

The minutes of the Licensing and Public Space Protection Order Sub Committee of 23 January 2023 can be found at <https://rbwm.moderngov.co.uk/ieListDocuments.aspx?CId=599&MId=8434&Ver=4>

3. The Application Process

Under section 51 of the Licensing Act 2003 a responsible authority or any other person may apply to the relevant licensing authority for a review of a premises licence.

A “responsible authority” is defined in the Licensing Act 2003 as one of the agencies set out in section 13 of that Act. This includes the relevant licensing authority in whose area the premises is situated.

Any such application must not be frivolous or vexatious or a repeat of a previous application, but it must relate to one or more of the four licensing objectives set out in the Licensing Act 2003, which are:

- the prevention of crime and disorder
- public safety
- the prevention of public nuisance, and
- the protection of children from harm

The application to review the premises licence of Jagz Ltd trading as Drinks and Flair is not frivolous or vexatious, or a repeat of a previous application. It relates to one or more of the four licensing objectives. It is therefore a valid application.

When an application is made to review a premises licence, the process is subject to statutory time limits. Regulation 22 of The Licensing Act 2003 (Premises licences and club premises certificates) Regulations 2005 provides the following for receiving representations in relation to an application;

- “a period of 28 consecutive days starting on the day after the day on which the application to which it relates was given to the authority by the applicant”.

This application was received on Friday 09 December. The 28 consecutive day period to receive representations therefore started on Saturday 10 December and ended on Friday 6 January 2023

Schedule 1 of The Licensing Act 2003 (Hearings) Regulations 2005 then provides the following for the timescale during which the hearing to determine an application for a review of a premises licence must be held;

- “20 working days beginning with the day after the end of the period during which representations may be made as prescribed under section 51(3)(c)”

This 20 working day period started on Monday 9 January and would end on Friday 3 February 2023.

Even though there have been several postponements of this hearing, for reasons set out below in Part 7 Subsequent Events, by having the original hearing on 23 January 2023 the requirement to hold a hearing within 20 working days was complied with.

At RBWM the hearing to determine an application to review a premises licence is before a Licensing and Public Space Protection Order Sub Committee(LPSPOSC), and that Sub Committee can take such steps, as set out in legislation, as are appropriate for the promotion of the four licensing objectives.

4. Licensing Authorities Acting as Responsible Authorities

It should be noted that, in respect of this application, RBWM is acting as both the licensing authority and as a responsible authority.

Section 53 of the Licensing Act 2003 specifically provides that, where a local authority is both the relevant licensing authority and a responsible authority in respect of any premises, the authority may, in its capacity as a responsible authority, apply under section 51 for a review of any premises licence, and may, in its capacity as licensing authority, determine that application.

In such situations the guidance included in the Home Office Revised Guidance issued under section 182 of the Licensing Act 2003, must be followed. This guidance (December 2022, updated 12 January 2023) states that;

11.6 Where the relevant licensing authority does act as a responsible authority and applies for a review, it is important that a separation of responsibilities is still achieved in this process to ensure procedural fairness and eliminate conflicts of interest. As outlined previously in Chapter 9 of this Guidance, the distinct functions of acting as licensing authority and responsible authority should be exercised by different officials to ensure a separation of

responsibilities. Further information on how licensing authorities should achieve this separation of responsibilities can be found in Chapter 9, paragraphs 9.13 to 9.19 of this Guidance

9.17 In cases where a licensing authority is also acting as responsible authority in relation to the same process, it is important to achieve a separation of responsibilities within the authority to ensure procedural fairness and eliminate conflicts of interest. In such cases licensing determinations will be made by the licensing committee or sub committee comprising elected members of the authority (although they are advised by a licensing officer). Therefore, a separation is achieved by allocating distinct functions (i.e. those of licensing authority and responsible authority) to different officials within the authority.

9.18 In these cases, licensing authorities should allocate the different responsibilities to different licensing officers or other officers within the local authority to ensure a proper separation of responsibilities. The officer advising the licensing committee (i.e. the authority acting in its capacity as the licensing authority) must be a different person from the officer who is acting for the responsible authority. The officer acting for the responsible authority should not be involved in the licensing decision process and should not discuss the merits of the case with those involved in making the determination by the licensing authority. For example, discussion should not take place between the officer acting as responsible authority and the officer handling the licence application regarding the merits of the case. Communication between these officers in relation to the case should remain professional and consistent with communication with other responsible authorities. Representations, subject to limited exceptions, must be made in writing. It is for the licensing authority to determine how the separate roles are divided to ensure an appropriate separation of responsibilities. This approach may not be appropriate for all licensing authorities and many authorities may already have processes in place to effectively achieve the same outcome

Following the Home Office guidance this separation of responsibilities has been achieved in this matter by having one officer, Greg Nelson, Trading Standards & Licensing Manager, acting as the licensing authority. His role is to present this application to the LPSPOSC by means of this report and to advise the Sub-Committee about the licence review process.

A different officer, Craig Hawkings RBWM Licensing Team Leader, is acting for the Royal Borough as a responsible authority.

To further ensure fairness and impartiality, decisions relating to the application to review this premises licence will be decided by the LPSPOSC, comprising elected members of the authority, advised by an impartial legal advisor.

5. Outline of the Application

The original applicant for this review was Mr Alexander Lisowski, RBWM Licensing Enforcement Officer, for RBWM Licensing acting as a responsible authority.

Mr Lisowski left RBWM on 30 March 2023 so Mr Craig Hawkings, RBWM Licensing Team Leader, is now acting for RBWM Licensing as a responsible authority based on Mr Lisowski's original application, and Mr Lisowski is now a witness in these proceedings.

The application from Mr Lisowski, **Appendix B** to this report, includes his statement dated 06/12/2022 setting out in detail the reasons why the application to review this premises licence was submitted and the evidence to support it. Mr Lisowski concludes his statement by saying

“Because of all these factors I don't think it is possible to stop further breaches of the licence happening. The only way to prevent further breaches of the licence from occurring, are to revoke the licence.”

The report of Mr Hawkings, now acting for RBWM Licensing as a responsible authority, is **Appendix C**.

The premises licence holder, in the form of the Director and majority shareholder of Jagz Ltd at that time, Ms Natasha Tah, was informed of this application by e-mail on 09 December 2022. The e-mail was sent to both the company's e-mail address and to Ms Tah's personal e-mail address. This e-mail is **Appendix D** to this report.

6. Relevant Representations Received

During the 28 consecutive day consultation period outlined in Part 3 The Application Process, above, responsible authorities, as defined by the Licensing Act 2003, may make representations about the application. Other persons may also make representations.

With respect to this application, originally from Mr Lisowski, to review the premises licence of Jagz Ltd trading as Drinks and Flair, relevant representations from responsible authorities other than RBWM Licensing were received as follows;

a. Thames Valley Police	Appendix E
b. RBWM Environmental Health	None
c. RBFRS:	None
d. RBWM Planning	None
e. RBWM Local Safeguarding Children's Board (LSCB)	None
f. Public Health	None
g. RBWM Trading Standards	None

Mr Lisowski, also made an additional representation which is added to his original application, **Appendix B**.

Representations about an application can also be made by any other person. Such a representation was received from Gosschalks LLP acting on behalf of the freehold owner of the premises that is the subject of this application. This representation is **Appendix F**.

All parties who made representations were required to notify the licensing authority, in advance, if they intended to attend the hearing and, if so, if they intended to be represented or call witnesses.

Proper notification was received from

- Mr Lisowski and Mr Hawkings, for RBWM Licensing acting as a responsible authority
- Debie Pearmain, Police Licensing Officer, Thames Valley Police
- Gosschalks LLP

7. Subsequent Events

As has been stated, this hearing was originally scheduled for 23 January 2023, then postponed to 9 and then 20 March 2023.

The reason for the postponement from 09 March to 20 March was because an allegation was made about one of the councillors due to sit on the Sub Committee on 9 March.

The allegation against the councillor related to a claim that he had already predetermined the outcome of this matter. These allegations were not substantiated but it was felt prudent to exclude him from these proceedings, so a new Sub Committee was convened for Monday 20 March with all parties being properly notified.

Ms Natasha Tah, at that time the director and majority shareholder of Jagz Ltd, the premises licence holder, made contact by e-mail on 7 March to say that she would be on tour (she is a music artist) until the end of April and asked for a postponement until after that time.

It was suggested that she attend the hearing by Zoom but she said that she wanted to attend the hearing in person, and in any case the nature of her touring schedule meant her availability could not be determined.

Legal advice was sought and the advice provided was that the hearing could go ahead on 20 March without Ms Tah present, but she then said that her solicitor was on holiday that week.

Under the circumstances it was agreed that the hearing would have to be postponed. This meant that it was unlikely that a new LPSPOSC could be convened until at least late May, or even June, because of the local elections on 4 May and the subsequent process of induction and training for the incoming councillors.

On 15 March Ms Tah was asked to provide

- Dates from 01 May to 30 June that her and her solicitor definitely could attend a hearing
- Dates from 01 May to 30 June that her and her solicitor definitely could not attend a hearing
- The name and contact details for her solicitor

All other parties were also asked for dates to avoid.

On 20 March Ms Tah made a complaint about the actions of Thames Valley Police and RBWM Licensing Officer Mr Lisowski at an event at the Drinks & Flair premises on 17 March 2023. The issues raised by Ms Tah, the response from RBWM and a statement from Mr Lisowski covering this incident can be found at **Appendix G**. The evidence from Thames Valley Police relating to this incident is included in **Appendix H** (see below)

On 27 April Ms Tah was asked again for her dates to avoid, she replied on the same day to say that she would be away performing from 3 May until 29 June, so any date after 29 June would be perfect for her and her solicitor.

On 2 June Ms Tah was contacted to say that a hearing in July was being looked at and she was asked for dates to avoid.

On 7 June Ms Tah replied to say that any time after 10 July would be fine.

On 12 June all parties were properly notified that the hearing would take place on Thursday 13 July.

Ms Pearmain for Thames Valley Police, Mr Lisowski (who is no longer a Licensing Officer with RBWM) and Ms Hipkiss, Licensing Manager from Stonegate Group, the owner of the free hold of the property, all confirmed that they would be attending.

On 16 June Ms Pearmain provided Further Evidence for Drinks & Flair, Station Hill Ascot, this is produced as **Appendix G**. This further evidence relates to;

- Advice given to the premises about an irresponsible drinks event that was being advertised at the premises (and which the premises agreed to stop advertising), and
- The incident on 17 March, referred to above, including a detailed statement from PC Gleave which includes
 - a customer saying she was admitted to the premises without an ID check, a breach of the premises licence
 - an individual identified as “H” being spoken to, this individual being “incredibly rude to both officers and the licensing officer, arguing with all of us, making personal comments towards them and accusing the licensing staff of taking bribes from various other pubs”

Ms Pearmain stated that Inspector Bennet, PC Gleave and PC Race would also be attending the hearing on 13 July.

In the run up to, and during the week of the Royal Ascot race meeting a number of incidents took place involving the Drinks & Flair premises. These were;

- In the run up to Royal Ascot, a failure to comply with the licence condition; “A suitable and sufficient Fire Risk Assessment to include all licensable areas both inside and outside to be submitted to Royal Borough of Windsor and Maidenhead Licensing, Thames Valley Police and Royal Berkshire Fire and Rescue Service, Eight (8) weeks prior to "Royal Ascot Week Race Meeting".”

This is included in the report of Mr Hawkings, **Appendix C**

- On 21 June, witnessed by Mr Hawkings, Licensing Team Leader, a failure to use the ID scanner for all customers upon entry, a breach of a licence condition which the premises had been repeatedly warned about and which features in the application from Mr Lisowski to review the premises licence.

This is also included in the report of Mr Hawkings, **Appendix C**

- From Tuesday 20 June until Saturday 24 June 2023 evidence from Inspector Katarzyna Filipek of British Transport Police of the following;
 - large numbers of persons being allowed access without the use of ID scanners due to gaps in the queuing systems and insufficient numbers of security personnel
 - people being able to walk in around the security unchallenged
 - admittance to the premises of intoxicated persons
 - the serving of alcohol to intoxicated persons
 - failure of security personnel to actively move people along to aid the egress from Royal Ascot, which meant the footpath into Ascot Station was blocked by people queuing to get into the Drinks & Flair premises, causing serious safety issues and an increased risk of crashing and serious injury
 - no count of the number of persons on the premises and too many people on the premises
 - security staff not wearing hi vis outer clothing, a breach of the premises licence

These matters were all witnessed by Inspector Filipek of British Transport Police, who had to intervene on numerous occasions at the premises to make the management aware of the issues and request them to make changes, see Inspector Filipek’s statement **Appendix I**, with the failure to use the ID scanner also witnessed by PC Reavil on 23 June, her statement is **Appendix J**

- On Friday 23 June, noise heard in surrounding residential streets from the music being played at the premises that “would have caused a significant disturbance to people attempting to relax both within and without their dwellings”. This was considered to be a statutory nuisance under the Environmental Protection Act 1990 and therefore a breach of the noise abatement notice previously served on the premises, in itself a criminal offence. These matters were witnessed by Carl Griffin, RBWM Environmental Protection Team Leader, and Michael McNaughton, RBWM Environmental Protection Officer, see their statements **Appendix K** and **Appendix L** respectively

On 27 June 2023 it was noted on the Companies House website that Ms Tah had resigned as a director of Jagz Ltd on 26 June 2023 and that she had ceased to be a person with significant control of Jagz Ltd on 26 June 2023.

Similarly, it was noted that Ms Tah had resigned as a director of Drinks & Flair Ltd on 26 June 2023 and ceased to be a person with significant control of Drinks & Flair Ltd on 26 June 2023.

Ms Tah was contacted by e-mail on 27 June and asked if she still had any ownership of or involvement of any kind with either Jagz Ltd and/or Drinks & Flair Ltd, and if so what that ownership or involvement was. She was also asked, if she was no longer the owner of one or both of these companies, if she could say who the owners were.

She was also asked if she would be attending the hearing on 13 July and whether she would be contesting the application to review the premises licence for Jagz Ltd t/as Drinks & Flair.

Ms Tah responded to say that she was no longer the owner of Jagz Ltd and had no interest or share in the company. She said that the ownership had been passed to Ms Candice Curtis and Mr Philip Hayward of Pantiles Properties Ltd.

Ms Tah also confirmed that she was no longer the owner of Drinks & Flair Ltd and had no interest or share in the company (in fact the full name of the company is Drinks & Flair UK Ltd – at the time this report was written that company had no directors or any other officers).

Ms Curtis and Mr Hayward were the two individuals who attended the LPSPOSC hearing on 23 January 2023, as explained in Part 2 Previous Hearing, above.

On 28 June 2023 it was noted on the Companies House website that Ms Candice Curtis had taken up the position of Secretary of Jagz Ltd on 28 June 2023.

Ms Curtis was contacted by e-mail on 29 June to advise her that a meeting of a RBWM LPSPOSC was taking place on 13 July 2023 to hear an application from RBWM Licensing to revoke the premises licence of Jagz Ltd trading as Drinks and Flair. Ms Curtis was asked about the ownership of Jagz Ltd, whether directors were to be appointed to the company, and whether she or another person or legal representative would be attending the hearing to act as or for the premises licence holder.

Ms Curtis replied to say that she and Mr Philip Haywood were now directors of Jagz Ltd (and this was confirmed by a check on the Companies House website on 30 June 2023). She said that the majority shareholder of Jagz Ltd was now Pantiles Properties Limited, of which she and Mr Haywood were the directors (confirmed by a check on the Companies House website).

Ms Curtis said they were working with Stonegate Pub Company Limited, the owners of the freehold of the property, and;

“In the interim our intentions here are completely different to the previous tenants and we look forward to bringing our hotel/shop/restaurant and bar/nightclub/venue room to the community, reviving the infamous Pantiles name and working with yourselves, the police and the local community to ensure this can happen as quickly as possible. Giving us the security that Philip and I need to invest further into this dilapidated but lovely old building and bring back the legacy of Pantiles.”

The e-mail and attachment of 29 June from Ms Curtis are **Appendix M**

8. Matters to Consider

In considering an application to review a premises licence, the LPSPOSC must take into account

- the application itself
- representations received about the application
- representations made by the premises licence holder
- Subsequent evidence submitted
- the RBWM Statement of Licensing Policy 2021-2026
- the Home Office Revised Guidance issued under section 182 of the Licensing Act 2003, April 2018.

9. RBWM Statement of Licensing Policy 2021-2026

The sections of the RBWM Licensing Policy relevant to this application are;

Licensing Objectives and other Key Aims and Purposes

1.9 The four licensing objectives covered by this policy, as set out in the Licensing Act 2003, are:

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

1.10 These four objectives are of equal importance. There are no other statutory licensing objectives so the promotion of these four objectives is a paramount consideration at all times.

1.11 This Statement of Policy reflects the guidance issued by the Home Office under section 182 of the Licensing Act 2003 (version published April 2018).

1.12 Paragraph 1.5 of the section 182 guidance states that licensing legislation supports a number of key aims and purposes. These are vitally important and should be principal aims for everyone involved in licensing work. These include:

- Protecting the public and local residents from crime, anti-social behaviour and noise nuisance caused by irresponsible licenced premises.
- Giving the police and licensing authorities the powers they need to effectively manage and police the night-time economy and take action against those premises that are causing the problems

Conditions

5.2 The Council maintains that licensing is about the control of licenced premises, qualifying clubs and temporary events within the terms of the 2003 Act. Any terms and conditions attached to licences will be focused on matters which are within the control of individual licensees and others granted relevant permissions, centering on the premises and their vicinity.

Wider Community Interest

6.9 Wider Community Interest - The licensing authority considers that its licensing functions are exercised in the public interest. Furthermore, the licensing authority is under a duty to take any steps with a view to the promotion of the licensing objectives in the interests of the wider community and not just those of the individual licence holder.

Promoting the Prevention of Crime and Disorder

Where appropriate, the licensing authority and responsible authorities may propose conditions relating to the following issues in relation to the Prevention of Crime and Disorder objective:

- Measure to prevent bottles being carried from premises
- Use of drinks' promotions
- Measure to prevent binge drinking
- Participation in the Pub Watch Scheme
- Use of door supervisors
- Training staff in crime prevention measures
- Search procedures
- Use of close circuit television
- Lighting
- Where premises are new, designing out crime
- Quality of surveillance of premises

10. Revised Guidance issued under section 182 of the Licensing Act 2003

The sections and paragraphs of the Home Office Guidance relevant to this application are;

Licensing objectives and aims

1.2 The legislation provides a clear focus on the promotion of four statutory objectives which must be addressed when licensing functions are undertaken.

1.3 The licensing objectives are:

- The prevention of crime and disorder;
- Public safety;
- The prevention of public nuisance; and
- The protection of children from harm.

1.4 Each objective is of equal importance. There are no other statutory licensing objectives, so that the promotion of the four objectives is a paramount consideration at all times.

1.5 However, the legislation also supports a number of other key aims and purposes. These are vitally important and should be principal aims for everyone involved in licensing work. They include:

- protecting the public and local residents from crime, anti-social behaviour and noise nuisance caused by irresponsible licensed premises;
- giving the police and licensing authorities the powers they need to effectively manage and police the night-time economy and take action against those premises that are causing problems;

Crime and disorder

2.1 Licensing authorities should look to the police as the main source of advice on crime and disorder. They should also seek to involve the local Community Safety Partnership (CSP).

2.3 Conditions should be targeted on deterrence and preventing crime and disorder including the prevention of illegal working in premises (see paragraph 10.10). For example, where there is good reason to suppose that disorder may take place, the presence of closed-circuit television (CCTV) cameras both inside and immediately outside the premises can actively deter disorder, nuisance, anti-social behaviour and crime generally. Some licence holders may wish to have cameras on their premises for the prevention of crime directed against the business itself, its staff, or its customers. But any condition may require a broader approach, and it may be appropriate to ensure that the precise location of cameras is set out on plans to ensure that certain areas are properly covered and there is no subsequent dispute over the terms of the condition.

Hearings

9.38 In determining the application with a view to promoting the licensing objectives in the overall interests of the local community, the licensing authority must give appropriate weight to:

- the steps that are appropriate to promote the licensing objectives;
- the representations (including supporting information) presented by all the parties;
- this Guidance;
- its own statement of licensing policy.

The review process

11.1 The proceedings set out in the 2003 Act for reviewing premises licences and club premises certificates represent a key protection for the community where problems associated with the licensing objectives occur after the grant or variation of a premises licence or club premises certificate.

11.2 At any stage, following the grant of a premises licence or club premises certificate, a responsible authority, or any other person, may ask the licensing

authority to review the licence or certificate because of a matter arising at the premises in connection with any of the four licensing objectives

11.5 Any responsible authority under the 2003 Act may apply for a review of a premises licence or club premises certificate. Therefore, the relevant licensing authority may apply for a review if it is concerned about licensed activities at premises and wants to intervene early without waiting for representations from other persons.

11.6 Where the relevant licensing authority does act as a responsible authority and applies for a review, it is important that a separation of responsibilities is still achieved in this process to ensure procedural fairness and eliminate conflicts of interest. As outlined previously in Chapter 9 of this Guidance, the distinct functions of acting as licensing authority and responsible authority should be exercised by different officials to ensure a separation of responsibilities. Further information on how licensing authorities should achieve this separation of responsibilities can be found in Chapter 9, paragraphs 9.13 to 9.19 of this Guidance.

11.9 Responsible authorities and other persons may make representations in respect of an application to review a premises licence or club premises certificate. They must be relevant (i.e., relate to one or more of the licensing objectives) and, in the case of other persons, must not be frivolous or vexatious. Representations must be made in writing and may be amplified at the subsequent hearing or may stand in their own right. Additional representations which do not amount to an amplification of the original representation may not be made at the hearing. Representations may be made electronically, provided the licensing authority agrees and the applicant submits a subsequent hard copy, unless the licensing authority waives this requirement.

11.10 Where authorised persons and responsible authorities have concerns about problems identified at premises, it is good practice for them to give licence holders early warning of their concerns and the need for improvement, and where possible they should advise the licence or certificate holder of the steps they need to take to address those concerns. A failure by the holder to respond to such warnings is expected to lead to a decision to apply for a review. Co-operation at a local level in promoting the licensing objectives should be encouraged and reviews should not be used to undermine this co-operation

Powers of a licensing authority on the determination of a review

11.16 The 2003 Act provides a range of powers for the licensing authority which it may exercise on determining a review where it considers them appropriate for the promotion of the licensing objectives.

11.17 The licensing authority may decide that the review does not require it to take any further steps appropriate to promoting the licensing objectives. In addition, there is nothing to prevent a licensing authority issuing an informal warning to the licence

holder and/or to recommend improvement within a particular period of time. It is expected that licensing authorities will regard such informal warnings as an important mechanism for ensuring that the licensing objectives are effectively promoted and that warnings should be issued in writing to the licence holder.

11.18 However, where responsible authorities such as the police or environmental health officers have already issued warnings requiring improvement – either orally or in writing – that have failed as part of their own stepped approach to address concerns, licensing authorities should not merely repeat that approach and should take this into account when considering what further action is appropriate. Similarly, licensing authorities may take into account any civil immigration penalties which a licence holder has been required to pay for employing an illegal worker

11.19 Where the licensing authority considers that action under its statutory powers is appropriate, it may take any of the following steps:

- modify the conditions of the premises licence (which includes adding new conditions or any alteration or omission of an existing condition), for example, by reducing the hours of opening or by requiring door supervisors at particular times;
- exclude a licensable activity from the scope of the licence, for example, to exclude the performance of live music or playing of recorded music (where it is not within the incidental live and recorded music exemption);
- remove the designated premises supervisor, for example, because they consider that the problems are the result of poor management;
- suspend the licence for a period not exceeding three months;
- revoke the licence.

11.20 In deciding which of these powers to invoke, it is expected that licensing authorities should so far as possible seek to establish the cause or causes of the concerns that the representations identify. The remedial action taken should generally be directed at these causes and should always be no more than an appropriate and proportionate response to address the causes of concern that instigated the review.

11.21 For example, licensing authorities should be alive to the possibility that the removal and replacement of the designated premises supervisor may be sufficient to remedy a problem where the cause of the identified problem directly relates to poor management decisions made by that individual.

11.22 Equally, it may emerge that poor management is a direct reflection of poor company practice or policy and the mere removal of the designated premises supervisor may be an inadequate response to the problems presented. Indeed, where subsequent review hearings are generated by representations, it should be rare merely to remove a succession of designated premises supervisors as this would be a clear indication of deeper problems that impact upon the licensing objectives.

11.23 Licensing authorities should also note that modifications of conditions and exclusions of licensable activities may be imposed either permanently or for a temporary period of up to three months. Temporary changes or suspension of the licence for up to three months could impact on the business holding the licence financially and would only be expected to be pursued as an appropriate means of promoting the licensing objectives or preventing illegal working. So, for instance, a licence could be suspended for a weekend as a means of deterring the holder from allowing the problems that gave rise to the review to happen again. However, it will always be important that any detrimental financial impact that may result from a licensing authority's decision is appropriate and proportionate to the promotion of the licensing objectives and for the prevention of illegal working in licensed premises. But where premises are found to be trading irresponsibly, the licensing authority should not hesitate, where appropriate to do so, to take tough action to tackle the problems at the premises and, where other measures are deemed insufficient, to revoke the licence.

11. Conclusion

The LPSPO Sub Committee is obliged to determine this application with a view to promoting the four licensing objectives, which are:

- The prevention of crime and disorder;
- Public safety;
- The prevention of public nuisance
- The protection of children from harm.

In making its decision, the Sub Committee is obliged to have regard to national guidance and the Council's own Statement of Licensing Policy, as well as giving full consideration to all of the written representations made and the evidence that it has seen and heard in relation to this application.

The Sub-Committee must then take such of the following steps (if any) as it considers appropriate for the promotion of the four licensing objectives:

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

In making their decision the Sub Committee is reminded that they have a duty to behave impartially and that their decision must be based on the evidence that has been presented to them.

In their written decision the Sub Committee should;

- Refer to every relevant representation and the supporting evidence provided

- State the extent to which it has taken account of RBWM Policy and national guidance
- When deciding in accordance with RBWM Policy and national guidance, explain why it has not considered a departure justified, if applicable
- If deciding contrary to RBWM Policy or national guidance, explain the basis and reason for the departure and the evidence that supported this decision
- When refusing an application in whole or in part, or modifying the activities and/or the hours and/or the conditions to a licence that is granted, state why it considered it appropriate to do so in order to promote one or more specified licencing objectives, and the evidence that supported this decision. Any such decision must be cogent and legally sound
- Use the legal adviser's help to draught its reasons and to assist in ensuring that the decision is legally robust, but the reasons must be the Sub Committee's
- Ensure, as far as is reasonably possible, that their decision will be able to withstand scrutiny should any of the parties to this hearing appeal that decision the to the Magistrates Court

The Sub Committee is reminded that any party to the hearing may appeal against its decision to the Magistrates Court within 21 days of the notification of that decision.

The Sub Committee is asked to determine the application

Appendices:

- Appendix A Premises licence for Jagz Ltd trading as Drinks and Flair
- Appendix B Application to review the premises licence for Jagz Ltd trading as Drinks and Flair plus additional representation from Mr Lisowski
- Appendix C Report of Craig Hawkings, Licensing Team Leader
- Appendix D Notice of the Application
- Appendix E Representation from Thames Valley Police
- Appendix F Representation from Gosschalks LLP
- Appendix G Complaint details, RBWM response and statement of Mr Lisowski
- Appendix H Further Evidence from TVP for Drinks & Flair, Station Hill Ascot
- Appendix I Statement of Inspector Filipek, British Transport Police
- Appendix J Statement of PC Reavil
- Appendix K Statement of Carl Griffin, RBWM Environmental Protection Team Leader
- Appendix L Statement of Michael McNaughton, RBWM Environmental Protection Officer
- Appendix M e-mail and attachment from Ms Curtis

Background papers:

Licensing Act 2003 found at

<https://www.legislation.gov.uk/ukpga/2003/17/contents>

Licensing Act 2003 s182 Statutory Guidance, found at

<https://www.gov.uk/government/publications/explanatory-memorandum-revised-guidance-issued-under-s-182-of-licensing-act-2003/revised-guidance-issued-under-section-182-of-the-licensing-act-2003-december-2022-accessible#introduction>

RBWM Statement of Licensing Policy 2021-2026, found at

https://www.rbwm.gov.uk/sites/default/files/2021-07/licensing_policy_statement.pdf

Financial implications: None directly but Members should be aware that any decision of the Sub Committee may be appealed against in the magistrates' court. Any such an appeal will involve additional costs to RBWM, and possible costs against the Council should the appeal be successful.

Environmental/Sustainability Implications: Any authorisation under the Licensing Act 2003 may give rise to environmental implications both positive and negative depending upon the application and any measures proposed to take control adverse environmental factors. However, in the case of this application, there are no specific environmental or sustainability implications.

Legal implications: As outlined in the report.

Equality Implications: None.

Risk Implications: None.

Community Safety Implications: As outlined in the evidence submitted to this hearing.

Report Author / Officer Reporting

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