

Contact Officer: Jenny Bryce-Chan

## **KIRKLEES COUNCIL**

### **LICENSING PANEL**

**Wednesday 6th November 2019**

Present: Councillor Amanda Pinnock (Chair)  
Councillor Christine Iredale  
Councillor Mohan Sokhal

In attendance: Russell Williams, Group Leader Licensing Public Protection  
Mike Skelton, Licensing Officer  
Jordan Barrett, Licensing Officer  
Richard Woodhead, West Yorkshire Police, Licensing Officer  
PC Katie Jagger, West Yorkshire Police, Licensing Officer

**1 Site Visit - Cupushi, 54 Calder Road, Lower Hopton, Mirfield, WF14 8NR**  
Site visit was undertaken.

**2 Interests**  
No interests were declared.

**3 Admission of the Public**  
That all agenda items be considered in public session.

**4 Deputations/Petitions**  
No deputations or petitions were received.

**5 Public Question Time**  
No questions were asked.

**6 Licensing Act 2003 – Application for the Grant of a Premises Licence: Cupushi, 54 Calder Road, Lower Hopton, Mirfield, WF14 8NR**

The Panel considered a report which outlined an application for the grant of a premises licence for Cupushi, 54 Calder Road, Lower Hopton, Mirfield, WF14 8NR.

The Licensing Officer, outlined the application, advising the Panel that on 30 August 2019, the Licensing department received an application for the grant of a premises licence for Cupushi, 54 Calder Road, Lower Hopton, Mirfield, WF14 8NR. The application was made on behalf of the company itself.

The licensable activity applied for by the applicant was for the supply of alcohol for consumption on the premises, live and recorded music as follows:-

- Supply of alcohol: Monday to Sunday, 11:00 – 23:00.
- Live Music: Monday to Sunday, 12:00 – 23:00
- Recorded Music: Monday to Sunday, 12:00 – 23:00

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In response to the application, eleven representations were received from members of the public. The representations suggested that should the application be granted, the licensing objectives in respect of Public Nuisance, Prevention of Crime and Disorder, Protection of Children from Harm and Public Safety would not be achieved.

The licensing service also received correspondence from ten other members of the public in support of the application.

The Council's Environment Health Team in their capacity as Responsible Authority, had also requested that certain conditions be applied to the license should it be granted.

The owner made representation to the Panel in support of the application and it was noted that although the application was for the full licence the intention was to serve wine between 9-5, and did not intend to open after 5:00pm unless it is for a ticket only event. The owner advised that to date, the venue had held three events and there had been no complaints from local residents and the aim was not to turn the venue into a bar but to provide a community hub and as the majority of the patrons were most likely be local, they would probably walk or take a taxi to the venue and therefore parking would not be an issue. The owner advised that with regards to live music the intention was not to host bands as the premises was not big enough but to play background music which would be no different to what the venue currently did now.

The Panel received representations from local residents who were concerned that granting the full application would give permission for the premises to open all hours and play music which would cause a nuisance to residents given the proximity of the premises to local properties.

Following careful consideration of all the representations both verbally and in writing, the Panel decided that:

**RESOLVED** – The application for the Grant of a Premises Licence on behalf of Cupushi be granted as stipulated in the application.

### **7 Application for Review Hearing under S51 Licensing Act 2003: JC's Convenience Store, 607 Wakefield Road, Waterloo, Huddersfield, HD5 9XF**

The Panel considered a report which outlined an application made by West Yorkshire Police for a review hearing under S51 Licensing Act 2003, JCS Convenience Store, 607 Wakefield Road, Waterloo, Huddersfield, HD5 9XF.

The Group Leader Licensing Public Protection outlined the application advising the Panel that on the 11 September 2019, West Yorkshire Police made an application for the review of the premises licence at JCS Convenience Store, 607 Wakefield Road, Waterloo. The applicant believed that the licensing objective of the prevention of crime and disorder was not being achieved at the premises.

West Yorkshire Police, Licensing Officer, confirmed that a joint partnership operation was undertaken on the 7th September 2019, when partner organisations namely West Yorkshire Police, Trading Standards and the local authority visited a

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number of shops, including JCS Convenience Store. The purpose of the operation was to ensure these premises were trading within the scope of the premises licence.

The Panel was informed that during the visit, four packs of different branded tobacco products were open on the counter, with a number of cigarettes missing from each packet. The owner's car was parked outside where a substantial amount of non-duty paid tobacco products were further found. There was also a serious breach of licensing conditions as the CCTV did not work and the owner could not operate the system and cameras were defective. It was also noted during the operation that staff were being employed without the necessary tax and national insurance being paid.

The Panel was further informed that the shop had been trading for under 12 months and during this time it has been proven that the premises licence holder has a disregard for employment and licensing laws and this disregard is clearly in breach of the licensing objectives in respect of public safety and the prevention of crime and disorder.

The premises Licence holder made representation advising the Panel it would be possible able to show receipts which would demonstrate that the purchase of a specific brand of cigarettes had been made from the local cash and carry store. Receipts were produced which, were circulated for the Panel's attention.

The Premises Licence holder responded to Panel questions by explaining that in respect of the non-duty paid cigarettes a friend had brought these back from the airport, and they were not for general sale but for personal use and there was only one other person that helped out at the store but not as a paid worker.

**RESOLVED** - The premises licence for JCS Convenience Store be revoked.

### **8 Application for Review Hearing under S51 Licensing Act 2003: Dixy Chicken, 19 Cross Church Street, Huddersfield HD1 2PY**

The Panel considered a report which outlined an application made by West Yorkshire Police for a review hearing under S51 Licensing Act 2003, Dixy Chicken, 19 Cross Church Street, Huddersfield, HD1 2PY.

The Panel previously met on the 15 October 2019, to consider the review application made by West Yorkshire Police in respect of Dixy Chicken. At the hearing, the Panel were unable to reach a conclusive decision as it needed further information from the owner of Dixy Chicken and West Yorkshire Police and deferred the hearing to the 6 November 2019, to allow time for further information to be provided.

The Group Leader Licensing Public Protection outlined the application advising the Panel that Dixy Chicken was visited as part of a joint operation between West Yorkshire Police, the UK Border Agency and the local authority on the 7 August 2019.

A number of shops were visited on that occasion; and the purpose of the operation was to ensure they were trading within the scope of their premise licence and that no illegal persons were employed in the premises. One individual was found to be

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employed at Dixy Chicken who had an expired student visa and who's right to remain in the UK had also expired.

West Yorkshire Police Licensing Officers, drew the Panel's attention to a statement provided from the UK Immigration Service. The statement gave details of the interview that was conducted on the day of the operation with the illegal worker. West Yorkshire Police Licensing Officer suggested to the Panel that this statement showed that the illegal worker was employed at Dixy Chicken and was not there purely for training purposes as was previously stated.

The Licensing Officer who was involved in the operation explained that he was not present at the premises when the illegal worker was arrested, when he and a colleague entered Dixy Chicken he noticed a gentleman in handcuffs. He explained that it was a vast building and having gone upstairs he could not say with any certainty that the premises was being used for living accommodation.

An associate of the owner made representation on behalf of the owner. The Panel was informed that there was no evidence that the premises was being used as living accommodation as there were no shower/bathing facilities. For health and safety reasons there were some toiletries i.e. washing soaps and sometimes customers would use upstairs. West Yorkshire Police Licensing Officer agreed to disregard the premises being used as living accommodation.

The Panel was further informed that the illegal worker was only there for a few days for training and at the time of the operation he was not in uniform. A copy of the illegal workers training records were circulated for the Panels attention.

The Panel raised a number of questions in respect of the illegal workers employment, and in response was advised that the new owner took over the shop 1st August 2019 and the operation took place on the 7th August 2019 and suggested that the illegal workers employment at the shop may have been at the behest of the previous owner.

In addition, a copy of a UK Border Agency document entitled Certificate of Application was circulated for the Panel's attention. The Panel sought clarification on the document and was advised that this document was often issued when a none EEA national had applied for residency in a EEA country. The certificate of application can be used to show that a person has a right to work.

The Panel questioned why such an important document was not produced at the first hearing.

Following careful consideration of all the representations, the Panel made the following decision:-

**RESOLVED** - That the application for a review of the Premises Licence under S51 Licensing Act 2003, Dixy Chicken be dismissed.