

CITY OF
WOLVERHAMPTON
COUNCIL

Statutory Licensing Sub-Committee

Minutes - 12 July 2021

Attendance

Members of the Statutory Licensing Sub-Committee

Cllr Phil Page (Chair)
Cllr Keith Inston
Cllr Rita Potter

Premises Licence Applicant

Rob Jephcotes	Agent
Rhys Linton	Applicant

Responsible Authorities

Greg Bickerdike	Licensing Authority
Aimee Taylor	West Midlands Police
Dianne Slack	Trading Standards
Emma Waites	Environmental Health
Andrea Crew	Public Health

Other Persons

Cllr Jonathan Crofts

Employees

Anita Chonk	Senior Licensing & Compliance Officer
Donna Cope	Democratic Services Officer
Dave Abel	Solicitor
Shelley Humphries	Democratic Services Officer (Host)

Item No. *Title*

1 Apologies for absence

There were no apologies for absence.

2 Declarations of interest

There were no declarations of interest.

**3 Licensing Act 2003 - Application for a Premises Licence in respect of
Irrhysponsible Drinks, 1A Brantley Avenue, Wolverhampton, WV3 9AP**

An application for a Premises Licence in respect of Irrhysponsible Drinks, 1A Brantley Avenue, Wolverhampton, WV3 9AP was considered following representations received from the Licensing Authority, West Midlands Police, Trading Standards, Environmental Health, Public Health and Other Persons.

The Chair welcomed all parties to the hearing and invited all those present to introduce themselves. All parties did so. He outlined the procedure to be followed and all parties confirmed that they understood the procedure.

Anita Chonk, Senior Licensing and Compliance Officer provided an outline of the application. Mr Rob Jephcotes, Agent representing the Applicant, Mr Rhys Linton, confirmed that the summary was accurate.

The Chair invited the Applicant to present the application. Mr Rob Jephcotes did so as per Appendix 1 of the report. He stated that he and his client had proactively tried to mediate with the objectors and were happy to work with the Responsible Authorities to address any concerns they had.

The Chair afforded all parties present the opportunity to question Mr Jephcotes and his client in relation to his submission.

In response to questions asked, Mr Linton stated the following:

- A Challenge 25 Policy had been implemented at the premises.
- Age verification posters had been displayed.
- An incident logbook and refusals book were in place.
- Since reading the objections he had realised that his social media advertising had not been appropriate, and he was learning from experience.
- Parking was available at the premises.
- CCTV was in place outside the premises.
- Mistakes had been made due to his lack of experience, but he was now aware of his responsibilities.
- He would be happy to reduce the trading hours.

The Chair invited the Licensing Authority to make representations. Greg Bickerdike, Licensing Manager, did so as per Appendix 3 of the report. He stated that the mediation document on page 73 of the report had not been agreed and that he had concerns regarding the underage sale incident and the marketing on social media.

The Chair afforded all parties present the opportunity to question the Licensing Authority in relation to its submission. Greg Bickerdike responded to questions asked and explained his concerns regarding the sale of single bottles.

The Chair invited West Midlands Police (WMP) to make representations. Aimee Taylor did so as per Appendix 4 of the report. She stated that WMP had not seen an age verification policy for the premises and had concerns regarding the online sales. She further stated that the Applicant was not upholding the Licensing Objectives.

The Chair afforded all parties present the opportunity to question West Midlands Police in relation to its submission. Miss Taylor responded to questions asked.

The Chair invited Environmental Health to make representations. Emma Waites, Senior Officer - Food and Health and Safety, did so as per Appendix 6 of the report. She stated that her objections were regarding noise nuisance and that her concerns would be alleviated should the Applicant reduce the trading hours as proposed.

The Chair invited all parties present to question Environmental Health in relation to its submission. Emma Waites, responded to questions asked.

The Chair invited Public Health to make representations. Andrea Crew, Senior Public Health Specialist, did so as per Appendix 7 of the report. She stated that her objections were solely regarding the name of the premises.

The Chair invited all parties present to question Public Health in relation to its submission. Andrea Crew responded to questions asked and following discussions regarding the premises name, Mr Rhys Linton agreed to change the premises name to 'Irrhysistable Drinks'.

The Chair invited Trading Standards to make representations. Dianne Slack, Tobacco Control Officer, did so as per Appendix 5 of the report. She outlined the underage sale incident and explained her concerns regarding online sales.

The Chair invited all parties present to question Trading Standards in relation to its submission. Dianne Slack responded to questions asked.

The Chair invited Other Persons to make representations. Councillor Jonathan Crofts did so as per Appendix 8 of the report.

The Chair invited all parties present to question Councillor Jonathan Crofts in relation to its submission. Councillor Jonathan Crofts responded to questions asked.

The Chair invited all parties present to make their final address.

Councillor Jonathan Crofts, Trading Standards, Public Health, Environmental Health, the Licensing Authority and the Applicant's Agent made a final statement.

Councillor Page, Councillor Potter, Councillor Inston, the Solicitor and Democratic Services Officer, withdrew from the meeting to enable the Sub-Committee to determine the matter.

The Sub-Committee adjourned at 11.45 hours.

The Hearing reconvened at 12.01 hours.

Councillor Page, Councillor Potter, Councillor Inston, the Solicitor and Democratic Services Officer re-joined the meeting.

The Chair advised all parties of the decision of the Sub-Committee and stated that the full decision notice would be sent to all parties within 5 days.

Resolved:

The Statutory Licensing Sub-Committee had taken note of all representations made both in writing and given orally by those who attended the hearing regarding the concerns raised in respect of the application for a Premises Licence for Irrhysponsible Drinks, 1A Brantley Avenue, Wolverhampton, WV3 9AP.

The Sub-Committee heard from the Applicant that:

1. Irrhysponsible Drinks was a venue intending to sell freshly made bottled cocktails for consumption away from the premises operating by collection or by delivery from social media/internet ordering either personally or via Deliveroo.
2. The premises had previously traded using Temporary Event Notices and whilst doing so failed an underage test purchase carried out by the Trading Standards Department.
3. The premises had also sold alcohol whilst no Temporary Event Licence was in place.
4. The Applicant stated that these errors occurred as a result of his lack of training and experience, but he was now aware of his responsibilities under the Licensing Regime and was working with all Responsible Authorities to address their concerns and those of local residents.
5. Drinks would be pre-ordered and the appropriate ID checks put in place including a Challenge 25 policy.
6. To address concerns raised regarding the name of the premises, he would change the name to "Irrhysistible Drinks."
7. The Applicant proposed conditions by way of a Mediation Document which included a reduction in the hours for the supply of alcohol.
8. The Applicant would not sell multi-pack drinks.

The Sub-Committee heard from the Licensing Authority as Responsible Authority that:

1. There was insufficient information within the Operating Schedule to show how the Applicant would address the Licensing Objectives.
2. The proposed Operating Schedule lacked enforceable conditions and therefore it was insufficient to uphold the licensing objectives in its current format.
3. The proposed Mediation document had not been agreed or signed.

4. The Applicant had admitted selling alcohol whilst not licensed to do so, despite receiving licensing training.
5. The Applicant had made an underage sale on 11/06/21 as a result of a Test Purchase Operation carried out by Trading Standards.
6. The Licensing Authority supported the refusal of a Licence to the Applicant.

The Sub-Committee heard from West Midlands Police that:

1. The business was trading online and that the Applicant had not disclosed this in his Application.
2. No age verification policy had been submitted to the Police for approval.
3. The Applicant had sold alcohol drinks to children when a test purchase exercise was carried out.
4. There had been no request by the Applicant for the test purchasers to lower their masks to allow him to assess their age.
5. The Applicant had failed to uphold the Licensing Objective of the Protection of Children from Harm.

The Sub-Committee heard from Trading Standards that:

1. A test purchase exercise carried out on 11/06/21 yielded the sale of alcohol (two 500ml bottles of alcohol – Tropical and Cherry 10%ABV) to two sixteen year old volunteers without them being asked for proof of age or to lower their face masks as part of the age verification process.
2. An inspection of the premises conducted after the test purchase exercise discovered that there was no Challenge 25 or similar proof of age scheme in operation and there were no posters or stickers advertising any age verification scheme. However, posters had now been put up.
3. There was no refusals records system in place.
4. The Application made no mention of controls over the online sales of the business and precautions needed to prevent online sales to children.
5. There was no CCTV installed inside the premises.

The Sub-Committee heard from Environmental Health that:

1. The Operating Schedule was insufficient to control noise nuisance at the premises.
2. The hours of operation were too long in a residential area and would impact upon residents trying to sleep.
3. There was no actual evidence of noise nuisance or litter in connection to the premises.

The Sub-Committee heard from Public Health that:

1. Public Health had concerns about the use of the name “Irrhysponsible Drinks” as it would attract younger age groups to drink alcohol by using the name as a marketing tool.
2. The proposed Operating Schedule was insufficient to uphold the licensing objectives.

3. That the City of Wolverhampton Council wanted to attract businesses to the City that operated correctly and for the public, but the present Application failed to do this.

The Sub-Committee heard from Councillor Jonathon Crofts that:

1. He was the local Councillor for this ward and his representations included and were made on behalf of the local residents and the three ward Councillors and included the written representations submitted by residents.
2. There were concerns regarding littering, parking and potential noise nuisance from customers and deliveries to the premises.
3. That social media advertising promoted an irresponsible attitude towards the Licensing Objectives.
4. That, if the Application were to be granted, conditions would be required to address these concerns.

The Sub-Committee had regard to both the written and oral evidence that had been presented and attached appropriate weight.

Having considered the views of all concerned, the Sub-Committee decided that the application for a premises licence should be granted, subject to the modifications and terms and conditions detailed below in accordance with section 18 of the Licensing Act 2018.

It was considered by the Licensing Sub-Committee that the following modifications to the proposed Operating Schedule and additional conditions should be attached in support of the licensing objectives:

Modifications to the Premises Name

That the premises name be changed to: Irrhysistible Drinks within 14 days from receipt of decision notice.

A fee of £10.50 would be payable in order to make this change of name.

Modifications to the operating schedule

Supply of alcohol

From: Monday to Saturday 12:00 – 23:00 Sunday 11:00 – 22:00

To: Monday to Sunday 12:00 – 21:00

General – all four licensing objectives

To remove:

I will ensure that any person selling or supplying alcoholic drink under the authority of a personal licence holder asks for a photo ID proof of age where they have reason to suspect that the individual may be under 18 years of age.

The prevention of crime and disorder

To add:

An electronic or written incidents log will be maintained at the premises with a record of all incidents of crime and disorder reported to or by the premises; all ejections of patrons; any complaints received; fraudulent ID or other items; any faults in the CCTV system; any visit by a relevant authority or emergency service. The incidents log will be produced to an officer of a responsible authority upon request. Where a crime is believed to have been committed, the incident will be reported to West Midlands Police. The incidents log will be kept for at least 12 months and will be produced to an officer of a responsible authority upon request.

Any supply of alcohol for consumption off the premises must be within a sealed container.

Public Safety

To remove:

No customers will be admitted or permitted to leave when carrying open or sealed bottles or glasses.

I will ensure that the consumption of alcohol is restricted to the areas identified on the plan attached to the operating schedule.

The prevention of public nuisance

To add:

Alcohol shall be delivered to a residential or business address only and shall not be delivered to a person in a public place, e.g. a car park, a street corner, a bus stop etc.

Signage will be visible at all premises exits to request that customers leave the premises and area quietly.

The protection of children from harm

To replace:

From: I will implement a proof of age policy agreed by the police and local authority.

To: A Challenge 25 proof of age scheme shall be operated at the premises where the only acceptable forms of identification are the following recognised photographic identification cards: a driving licence, a passport, a military identification card or a Proof of Age card carrying a 'PASS' hologram.

From: I will display any restrictions on the admittance of individuals according to age (e.g. Children) on or immediately outside the premises.

To: Under 18s are prohibited from entering the premises and signage advising of this will be visible at all entrances.

To add:

The premises licence holder shall maintain an accurate and up to date record of all sales of alcohol made via remotes means. This information shall be made available to Police and authorised officers when requested.

Where internet/telephone sales are placed, age verification shall be obtained before the sale takes place. The customer shall be made aware that acceptable forms of identification may be checked at the point of delivery. Customers placing orders over the internet shall be asked to verify their age if unable to pay by credit card.

A refusals record shall be kept at the premises which details all refusals to sell alcohol. This record shall include:

- the date and time of the incident
- a description of the person seeking to buy alcohol
- the name of the staff member who refused the sale
- the reason the sale was refused

All entries must be made within 24 hours of the refusal. The record must be made available for inspection when requested by an officer of a Responsible Authority. Records shall be kept for at least 12 months.

Where a delivery is made by the premises staff or by staff employed directly by the company:

- a refusals log shall be maintained by delivery drivers who are unable to deliver age restricted goods, due to the failure of age identification or if the recipient is believed to be under the influence of alcohol or drugs
- delivery staff shall be over 18 years of age

Where a delivery driver has concerns further to child protection at any address to which alcohol has been delivered these concerns shall be made known to the premises licence holder with a minimum of delay whereupon the premises licence holder shall report the matter to Wolverhampton's Emergency Duty Team.

All delivery address labels must state that the package must not be delivered to a person under 18 years of age. All transactions requiring age verification via your specified courier are to be documented, detailing the order number, recipient and delivery address. This document is to be made available to any responsible authority if requested.

When age-restricted goods are delivered to a customer's address, the person who takes receipt of the goods must subject to Challenge 25 verification. Where age verification is required, an original valid photographic identity document must be provided.

Delivery staff shall have emergency contact numbers for the DPS or the designated responsible person.

Age verification requirements shall be prominently displayed on the website and in on all advertising materials including online advertising. There shall be the following statement on any website through which sales are made: "We operate a Challenge 25 policy and you must be at least 18 years old to purchase alcohol. It is a criminal offence for anyone under the age of 18 to buy or attempt to buy alcohol. It is also a criminal offence for anyone to buy or attempt to buy alcohol for persons under the age of 18. A record is kept of all purchases and attempted purchases. Orders cannot be collected from the premises."

All staff, including all delivery drivers, to receive training and refresher training every six months on their responsibilities with regard to licensing legislation and, in particular, to underage and proxy sales. Training will also cover Challenge 25 and conflict management. This training must be documented and produced to an officer of a responsible authority upon request.

Finally, such conditions as are specified on/or consistent with the operating schedule will be attached to the licence, together with any mandatory conditions required by the Act. These conditions are as follows:

- The premises shall install and maintain a CCTV system. All entry and exit points AND all areas that public have access except the toilets will be covered enabling frontal identification of every person entering in any light condition.
- The CCTV system shall continually record whilst the premises is open for licensable activities and during all times when customers remain on the premises. All recordings shall be stored for a minimum period of 31 days with date and time stamping. Viewing of recordings shall be made available immediately upon the request of Police or authorised officer throughout the entire 31-day period.
- A staff member from the premises who is conversant with the operation of the CCTV system shall be on the premises at all times when the premises is

open. This staff member must be able to provide a Police or authorised council officer copies of recent CCTV images or data with the absolute minimum of delay when requested.

- Clear notices will be displayed at all exits requesting patrons to leave the premises quietly.
- All relevant staff will be trained in the law regarding the sale of alcohol to underage persons. This training will be documented and made available upon request of the police or authorised member of the licensing authority.
- All staff shall be trained in
 - Challenge 25
 - Recognising signs of drunkenness,
 - How to refuse service,
 - The premises' duty of care,
 - The conditions in force under this licence.
- Documented records of training completed shall be kept for each member of staff. Training shall be regularly refreshed and at no greater than 12 monthly intervals. Training records shall be made available for inspection upon request of any RA.
- All staff to be trained on the Challenge 25 policy. This training will be documented and refreshed every 12 months and made available to any Responsible Authority upon request.
- The premises shall display prominent signage indicating at all points of sale and at the entrance to the premises that the Challenge 25 scheme is in operation.

A written copy of the decision would be forwarded to all parties forthwith.

All parties had a right of appeal to the Magistrates Court within 21 days of receipt of the decision.