

**MK CONVENIENCE, 31-33 SALTERSGILL AVENUE, MIDDLESBROUGH, TS4 3LD –  
NOTICE OF DECISION OF LICENSING SUB-COMMITTEE ON 27 FEBRUARY 2018**

1. On the 27 February 2018, The Committee considered an Application to review a Premises Licence in the name of Keith Pratt in relation to Premises at 31 to 33 Saltersgill Avenue, Middlesbrough known as MK Convenience (“the Premises”) which authorises the off sales of alcohol between 9 am and 10 pm daily.
2. The Committee noted under Section 4 of the Licensing Act 2003 (“the Act”) that it must carry out its functions with a view to promoting the licensing objectives. The Committee must also have regard to guidance issued by the Government under Section 182 of the Act (“the Guidance”) and Middlesbrough Council’s Statement of Licensing Policy (“the Policy”). It noted under Section 52 of the Act the Committee, following hearing a review of a Premises licence, must, having regard to the application and any relevant representations, take such steps as it considers appropriate for the promotion of the licensing objectives.
3. The Committee noted that the steps are – to do nothing, issue a warning, remove add or change the conditions on the Licence, exclude a licensable activity from the Licence, remove the Designated Premises Supervisor, suspend the Licence and revoke the Licence.
4. The Committee carefully considered the Application, the report and appendices. It carefully considered the representations made by the Applicant, Responsible Authorities, Premises Licence Holder (“the PLH”), the witnesses in support and his representative. It carefully considered the Act, Guidance, Policy and licensing objectives.

**Decision**

5. The Committee decided that it was appropriate to revoke the Premise Licence in order to promotion the prevention of crime and disorder and to promote public safety.

**Considerations and Reasons**

6. The Applicant and Responsible Authorities informed the Committee of various issues, including (but not limited to) the following in summary:
7. That criminality and irresponsible management had occurred at the Premises. During an inspection with Responsible Authorities and HMRC on the 16 June 2017 HMRC seized alcohol for which no duty

had been paid. The alcohol seized had not been purchased from a registered approved wholesaler. That such acts amounted to criminal offences however could be dealt with through civil penalties. That a civil penalty for payment of the duty had been imposed and in addition a civil penalty in the sum of £200 had been imposed for wrongdoing. No invoices could be produced on the visit in relation to the alcohol. The alcohol had been purchased from a white van man. The production and transfer details of the alcohol could not be traced and, therefore, there could have been a risk that the alcohol was unsafe. That since the licence was granted to Mr Pratt, there had been continuous breaches of Licensing Conditions on the Premises Licence and that conditions and wrongdoing continued despite numerous warnings. The alcohol seized was high strength cheap alcohol and is considered high risk because it is attractive to problem drinkers who either cause harm to themselves or others or then go on to cause crime and disorder or anti social behaviour. That the Premises continued to sell high strength cheap alcohol (per unit). That the Premises is situated in an area subject to a special cumulative impact policy. Alcohol fuelled crime and disorder and anti social behaviour is serious in the area and alcohol harms are being caused to residents.

8. The Premises Licence Holder, his representative and witnesses informed the Committee of various matters including (but not limited to) the following in summary:
9. That the PLH nor staff at the Premises knew at the time they should only purchase alcohol from a registered wholesaler from the 1 April 2017. That an invoice was produced giving details of the suppliers which had a VAT reference number. No direct information was received about the coming into force of the scheme by HMRC. The Council only informed businesses after the scheme came into force, in May. The business did not receive the information from the Council in May. The purchase was made very shortly after it came into force on the 18 April 2017.

That it was accepted that the Premises had been poorly ran in the past and reasons were given by the PLH as to why standards had dropped due to personal circumstances, however, the problems have now been dealt with. A new DPS had been employed, staff have been trained and it was confirmed that at a recent visit in February 2018 the Licence conditions were being complied with. The Premises and the people in charge have been helpful to the police and had assisted in solving crime in the area by the provision of CCTV footage. The PLH and staff have cooperated with HMRC and Responsible Authorities. That the building which the Premises is situated was refurbished and

improved the area. That the staff who bought from the white van supplier had been sacked, the PLH would not be running the business and an application had been made to transfer the Licence to the DPS. The DPS has experience knows the area and has ensured conditions have been complied with and they have had no failed test purchases.

10. The Committee considered that alcohol on display at and sold from the Premises had no duty paid nor was the alcohol purchased from a registered wholesaler. The Applicant confirmed these were criminal offences. The business received a civil penalty to pay the duty of £458.00 and in addition, after considering the circumstances, HMRC issued a further penalty for wrongdoing in the sum of £200. Therefore, it considered that Premises Licence Holder and other parties involved were failing to promote the prevention of crime and disorder.
11. The Committee considered that since the grant of the Licence and the opening of the Premises, the PLH and others purporting to be in charge breached or allowed others to breach the conditions on the Premises Licence throughout the licence since 2013. A breach of a condition on a Licence is a criminal act and the promotion of the prevention of crime and disorder had not been upheld.
12. The Licensee claimed he thought the alcohol was legitimate because an invoice was provided. The Licensee also submitted that he was not informed and did not know that he was required to purchase from a wholesaler registered with HRMC from the 1 April 2017.
13. The Committee was concerned that the invoice was not available on the day of inspection and no one in charge or staff knew where it was or if it existed. It was concerned that the invoice was sent on the 30 November 2017 after the first date for the review hearing had been adjourned.
14. The Committee was also concerned it was told at the hearing that the member of staff who purchased alcohol from the white van had done this before with the knowledge of the people who appeared to be in charge. It was concerned the alcohol was purchased from the white van man because it was very cheap and because it was a type of alcohol that was not available at legitimate wholesalers such as Karpackie polish beer. It was seriously concerned that staff had bought from the white van after making enquiries to find out that it sold such alcohol as a result of customer requests. The Committee heard that this is high risk alcohol attractive to problem drinkers because of its very high strength and cheap price.

15. Despite claiming a belief that the alcohol was legitimate, it was clear to the Committee that a reasonable person would assume in the circumstances that the alcohol would not be legitimate. The invoice was clearly suspect because the prices were very cheap and were below prices alcohol could be sold with duty paid. The Committee was also concerned that the business named on the invoice, based in Birmingham, had been refused registration by HMRC because it was considered not fit and proper to sell alcohol wholesale to retailers.
16. The Committee was also seriously concerned that buying alcohol for sale to the public in such a manner could be a risk to public safety. Although the Licensee claimed the alcohol was traceable because of the invoice and the VAT registration number provided, there was no overall traceability which a retailer would achieve by buying from a legitimate wholesaler. A retailer buying alcohol in such circumstances is putting the public at risk because there is no assurance that the alcohol had been produced safely or not tampered with in transit.
17. HMRC confirmed information was supplied on government website and advertised generally to retailers that alcohol should be purchased from registered wholesalers and it is illegal not to do so. The Committee noted that a leaflet had been left at the Premises by the Council explaining these requirements in May 2017 after the date the Licensee claimed the alcohol was purchased. The Committee considered responsible retailers would be aware of their responsibilities. In any event a responsible retailer would not purchase alcohol in the manner explained above.
18. The Committee could not determine who was in control of the Premises. The owner of the building prevented the Licence Holder who was also the DPS from entering the building at some point after the visit in June and a new DPS was not appointed until the end of November 2017. During this period serious breaches of the Licence took place. The building owner authorised the purchase of alcohol.
19. The DPS appointed at the end of November revealed that she was involved with the building owner, she was not clear when she was appointed and she had helped out now and again when breaches took place. Before being appointed DPS she was involved in purchasing alcohol. The DPS said that on being employed as the manager no one in charge showed her the Licence or the conditions. The Committee considered the DPS submissions were inconsistent and unclear.

20. The Committee considered that all parties linked with the Premises at the hearing were intrinsically linked and all were involved in previous breaches of the licence conditions and the rules and regulations relating to licensing.
21. There has been a continuous management issues which has resulted in the objectives being seriously undermined. This is aggravated because the premises is situated in an area which already suffers from serious alcohol related harms. The Committee considered that helping the police with enquiries does not exonerate such serious and continued breaches.
22. Although a recent visit in February 2018 just a couple of weeks prior to this hearing showed compliance with the Licence conditions, the Committee did not consider this was sufficient to ensure the Licensing objectives would be upheld because of the history of breaches disregard for the law and management failure. Breaches and a disregard from the law had continued for a sustained period despite numerous warnings and advice on compliance.
23. The Committee therefore did not consider that further conditions on the Licence would be complied with and the people in charge or involved in the operation would continue to undermine the Licensing objectives. After taking into consideration all the issues on the whole it was appropriate to revoke the Licence in order to uphold the licensing objectives.

Dated 7 March 2018

