

**Minutes of a meeting of Mid Sussex District Council Liquor Licensing Panel  
held on Tuesday, 8th August, 2023  
from 10.08 am**

**Present:** Councillors: P Kenny (Chairman)  
J Dabell  
J Henwood

**Officers in attendance:** Nathan Mountney, Solicitor to the Licensing Panel  
Lucy Corrie, Assistant Director Communities  
Jon Bryant, Senior Licensing Officer  
Alison Hammond, Democratic Services Officer

**Also in attendance:** Mr Karaimuthu, Licence Holder, K & A Enterprises  
Mr Kanapathi, Agent for the Licence Holder  
Peter Aston, WSCC Trading Standards, Interested Party  
Lucinda Joyce, Senior Democratic Services Officer  
Ellen Fisher, Democratic Services Officer

**Observing Members:** Cllr L Farren  
Cllr M Miah

The panel and officers were introduced to the applicants and Responsible Authority.

**LS.1 TO RECEIVE APOLOGIES FOR ABSENCE.**

Apologies were received from WSCC Public Health and Sussex Police.

**LS.2 TO RECEIVE DECLARATIONS OF INTERESTS FROM MEMBERS IN RESPECT OF ANY MATTER ON THE AGENDA.**

None.

**LS.3 TO BE AGREED BY GENERAL AFFIRMATION THE MINUTES OF THE PREVIOUS MEETINGS HELD ON 6 APRIL AND 5 JUNE 2023.**

The minutes of the meetings held on 6 April and 5 June 2023 were agreed as a correct record and were signed by the Chairman.

**LS.4 APPLICATION TO REVIEW PREMISES LICENCE - LICENSING ACT 2003.**

Introduction and outline of the report

Jon Bryant, Senior Licensing Officer introduced the report to determine an application

submitted by West Sussex Trading Standards to review a Premises Licence at K & A Enterprise, Haywards Heath; the review related to the Prevention of Crime and Disorder, the Promotion of Public Safety, and the Protection of Children from Harm.

The application to review the licence, pursuant to Section 51 Licensing Act follows the sale of underage products, the sale of alcohol to a child during a test purchase conducted by West Sussex Trading Standards on 2<sup>nd</sup> September 2021 and a further sale of alcohol to a child during a test purchase conducted by Trading Standards on 8<sup>th</sup> February 2023. Submissions from Responsible Authorities, in support of the review had also been received from Sussex Police and WSCC Public Health.

The Panel were asked to determine the application on the evidence presented at the hearing having regard to the Licensing Act 2003, MSDC Licensing Policy and the Home Office Guidance issued under Section 182 Licensing Act 2003.

The Senior Licensing Officer advised K & A Enterprise of 118 South Road have been licenced for the sale of alcohol for consumption off the premises since December 2008, under Licence Number PWA0348. The Designated Premises Supervisor (DPS) at the time of the incidents in the review application was Mr Kandeepan Kandhasamy. The Officer highlighted that on 5<sup>th</sup> May 2023, during the investigation by Trading Standards and prior to the review application the Premises Licence Holder and DPS was transferred from Mr Kandeepan Kandhasamy to Mr Selvakkumar Karaimuthu, both of 118 South Road. The Officer noted the additional conditions on the current licence, as detailed in the report. The Panel were advised, if appropriate they could update the schedule of conditions to remove duplicates and out of date conditions.

The review was requested as during a test purchase organised by Trading Standards on 8<sup>th</sup> February 2023 a child was sold alcohol. They were also made aware of the sale of age restricted products, vapes and alcohol to children, confirming the sale of alcohol to a child during a test purchase on 3<sup>rd</sup> September 2021; a warning letter had been issued to Mr Kandhasamy. Trading Standards stated that prevention advice on the sale of underage products has been given to Mr Kandhasamy previously on a number of occasions. During an inspection in 2019 there were also issues on food safety and the labelling of products. Trading Standards advised there is a failure to consistently uphold the licensing objectives and requested that the Panel review the licence to limit further criminal activity, and act as a deterrent for other licence holders considering illegal activities. As advice on the sale of underage products had been given on several occasions, Trading Standards suggested a revocation was a suitable outcome of the review.

The Officer confirmed that the review of the license had been correctly advertised and the current Premises Licence Holder and DPS was Mr Karaimuthu. During a visit by the Licensing Team on 14<sup>th</sup> June Mr Karaimuthu advised Mr Kandhasamy was no longer involved with the premises; appendix 6 shows he was detailed on the DPS authorisation form. Mr Karaimuthu stated that he helped out at times. The Officer highlighted that Appendix 6A was obtained during a programmed inspection visit following the failed test purchase in February 2023; the Licensing Team conduct visits to ensure the Licensing Objectives are being upheld.

The Officer confirmed that Mr Kandasamy was the DPS at the time and Mr Karaimuthu had signed the DPS authorisation form for 3<sup>rd</sup> June and 3<sup>rd</sup> September 2022. Sussex Police supports the request for a review on the same grounds and the

request to revoke the licence, their submission highlighted sections 11.27 and 11.28 of the statutory guidance. West Sussex County Council Public Health also supported the review, and in their representation they stated that they are deeply concerned over the sale of alcohol to children due to the harm caused by the effects of alcohol. They reiterated that the licence holder had received advice weeks before the failed test purchase; the advice had not been acted upon and there was a disregard for the law.

The determination should be carried out in accordance with the Licensing Act 2003, MSDC Licensing Policy and the Home Office Guidance issued under Section 182 Licensing Act 2003, whilst having due regard to the applicant's submissions and relevant representations. He highlighted sections 51(1) and 52 of the Licensing Act 2003 and sections 11.27 of the Guidance Issued Under Section 182 of the Licensing Act 2003: there is certain criminal activity that may arise in connection with licensed premises which should be treated particularly seriously. The Officer advised that any party has 21 days in which to appeal to Brighton Magistrates Court and the revocation takes effect after 21 days after receipt of the notice if no appeal has been received.

The Panel could modify the conditions of the licence, exclude a licensable activity from the scope of the licence, remove the designated premises supervisor, suspend the licence for a period not exceeding three months or revoke the licence.

The Panel were asked to determine the review application, having due regard to all relevant representations for the promotion of the Licensing Objectives: the prevention of crime and disorder, the promotion of public safety, the prevention of public nuisance and the protection of children from harm.

The Officer summarised the appendices and highlighted that the current licence holder was employed at store in 2022.

#### Questions to the Senior Licensing Officer

There were no questions for the Senior Licensing Officer from Trading Standards. Mr Kanapathi, agent for the Licence Holder advised the licence transfer was received on 5<sup>th</sup> May 2023 and the review was requested on 3 June, the Officer confirmed the dates were correct.

#### Mr Peter Aston, WSCC Trading Standards, Team Manager - Responsible Authority

Mr Aston advised Trading Standards had requested a review of the premises licence of K & A Enterprise, 118 South Road, Haywards Heath under Section 51 of the Licensing Act 2003 with a view to a revocation, suspension, additional conditions or removal of the DPS. He highlighted that the current operation of the premises was undermining the Licensing Objectives. The purpose of the review was to bring to the Local Authorities attention the breaches of the licencing laws. He outlined their press release of October 2021 of a zero tolerance to underage sales of alcohol and noted previous cases where licences have been revoked following a review of a licence. Where there is evidence of a breach of licencing laws, Trading Standards will seek a review to get the licence suspended or revoked, this enforcement action is in line with their policy. He noted that K & A Enterprise had received both personal visits and a follow up letter in writing.

He confirmed that intelligence reports in Mid Sussex have risen, in particular relating the sale of vapes. He gave a brief history K & A Enterprise noting K & A Enterprise Ltd was still active, Mr Kandhasamy is the sole director of the business. He noted that in 2019 a visit found items past use their use by date and they requested joint visit with MSDC Environmental Health Team. Age restricted sales were discussed, a till prompt was present and the last entry in the refusal log was for June 2022. A pack of JPS cigarettes was found which contravened the 2018 legislation as it was not in plain packing. A warning letter was issued detailing food and tobacco legislation. More cases were noted from 2021 as well as a test purchase for underage sales. Mr Karaimuthu sold a minor a 4 pack of Carlsberg beer; further warning letters were sent in October 2021. In 2022 further information was received by MSDC Licensing Team from Sussex Police on underage sales of alcohol. On 5<sup>th</sup> August 2022 by appointment Trading Standards visited, a letter was sent to Mr Kandhasamy, the DPS noting the zero tolerance on underage sales and the consequences. In October 2022 the Citizens Advice Bureau complained that the shop was selling vapes to children in school uniform. On 23<sup>rd</sup> January 2023 a parent informed Trading Standards that their son had bought a vape there on three occasions whilst wearing school uniform. A further visit by Trading Standards to Mr Kandhasamy on 26<sup>th</sup> January to provide details of the allegation and give advice regarding underage sales. Mr Kandhasamy said they thought the purchaser was 21 and the staff are trained, an advice letter was emailed to the DPS. Two weeks later 8<sup>th</sup> February 2023 the shop failed an underage test purchase to a 17-year-old who was sold an alcoholic drink. Their age / ID was not checked, this was confirmed by the officers; the policy was last signed on 3<sup>rd</sup> June 2023 and the refusals log could not be found. The DPS was interviewed on 28<sup>th</sup> April 2023 under caution and there was some contradiction with comments made by a member of the staff who was interviewed. At the time Mr Kandhasamy was still the director of the business and worked there, he was listed in document for DPS authorisation and the training records. Trading Standards noted the business is now under new management, breaching the Licensing Objectives of Protecting Children from Harm and breaches regarding the sale of out-of-date food and selling foreign food. In summary Mr Aston advised a licence review can be a deterrent and Home Office guidance advice Local Authorities should give weight to child protection matters.

#### Questions to the Trading Standards, Responsible Authority

There were no questions for Trading Standards.

#### Mr Kanapathi, Agent for the Licence Holder

Mr Kanapathi highlighted that Mr Karaimuthu was now the current premises licence holder and owner of the business, since 5<sup>th</sup> May, and he had documentation to show the transfer, including a lease and letter for business rates. He noted that the Limited Company can still exist, and Mr Kandhasamy can continue to run it. He advised that the previous owner had lived in Wallington, Surrey, and could not manage the business (from Surrey). He noted the number of previous complaints and failures under the previous licence holder and owner of the business. At that time Mr Karaimuthu was living in one of the apartments (above the premises) and working part time in the shop.

He noted since 1<sup>st</sup> April 2023 the business had been “fully controlled by the new owner”. The previous owner had remained there for a while to support Mr Karaimuthu make sure everyone in the shop was trained. Mr Karaimuthu was there to promote

the full Licensing Objectives and protect children from harm. He highlighted that there had been no objections from Sussex Police during the 14-day consultation period when Mr Karaimuthu became the new licence holder and DPS. Since 1<sup>st</sup> April there had been no test purchases to fail and no public complaints; there are more children about due to time of the year. He admitted a mistake was made in September 2021 when Mr Karaimuthu had sold underage products to children.

Since taking over Mr Karaimuthu has gone through all the paperwork; in their opinion the business had not been properly managed by the previous owner during 2020 – 2022 and Trading Standards records re the evidence. It would be unfair to punish Mr Karaimuthu for previous offences. He advised additional conditions could be added to the licence, in particular to protect kids from harm. He proposed a till prompt system when scanning products, and advised staff training was already in place; he suggested the condition on staff training every eight-week should be changed to monthly. They had met with the Trading Standards officer before the meeting, from 1<sup>st</sup> August staff will be trained monthly and all records will be available for inspection by the officers. He noted the other cases and outcomes, and each case should be reviewed on its own. The history of the premises looks bad, the previous licence holder never sold products to underage people as he wasn't there; there was a failure of the old management. Mr Karaimuthu lives upstairs and works there most of the time. He noted a BII (Business Institute of Innkeeping) training course for staff for under-age prevention courses, which would be better than relying on leaflets. He suggested a condition on the license to have external training courses. He noted the area is a good area for families, the shop sells ethnic products and is well kept, there had been no breaches in any other licence conditions. It was confirmed that Challenge 25 had not been used in the shop. If the Committee were concerned, he would be happy to have a condition to exclude the previous licence holder from the premises; it would give Mr Karaimuthu an opportunity to run the business himself. "This is his first time in front of the panel but was not an excuse".

#### Questions to the Agent of the Licence Holder

Mr Aston advised that Trading Standards did not get an opportunity to object to the licence transfer. He queried the legal status of K & A Enterprise.

Mr Kanapathi advised Mr Karaimuthu is operating K & A Enterprise as a sole trader; before K & A Enterprise was a limited company. He also confirmed he had evidence to support the business was purchased from Mr Kandhasamy.

A Member noted the value of the work by local shop keepers. They asked if Mr Kandhasamy, the previous licence holder was related to Mr Karaimuthu, and who instructed the staff.

Mr Kanapathi advised Mr Karaimuthu, the current licence holder instructs the staff. Mr Kandhasamy was not an employee, and he was there to support the transfer, he is not involved any more. He reiterated that they were happy to have a condition on the licence regarding Mr Kandhasamy. There is no relationship between Mr Kandhasamy and Mr Karaimuthu; previously Mr Karaimuthu was an employee but now he is the owner.

A Member expressed concern as the Panel had been advised that Mr Kandhasamy lived in Wallingdon, but his address was given as 118 South Road. He also asked if any consideration was paid for the transfer of ownership of the business.

Mr Kanapathi confirmed that Mr Kandhasamy had never lived at shop and there was an agreement (for the transfer of the business), but he did not have the business transfer documents at the hearing. The lease had been transferred and the business rates were in Mr Karaimuthu's name.

In response to a question from the Chairman, Mr Karaimuthu advised he had worked at the shop since 2017; he also confirmed in September 2021 he had sold the age restricted product to an underage child.

#### Summing up by WSCC Trading Standards

Mr Aston reiterated the seriousness of the case which demonstrated a persistent non-compliance over a long time. Trading Standards had no confidence that the licence holder will uphold the Licensing Objectives as no action was taken after advice had been given. They questioned the reason for the transfer of the premises licence, and noted the need to address training as there was ongoing evidence that they were selling age-restricted products to children. Trading Standards suggested a revocation of the premises licence which would act as a deterrent to other business.

Nathan Mountney, Solicitor to the Licensing Panel advised the Panel that the agent had documents relating to the ownership of the business, and suggested these were reviewed by the Panel before retiring to make their decision as they may have further questions. It was agreed that the Licensing Team and Trading Standards could also review the documents.

The Members left the Chamber to review the documents at 11.11 am. The Members returned to the Chamber at 11.33 am.

#### Further questions to the Licence Holder and his agent.

The Officer asked how many people worked at the shop, and with regard to the licensing records and DPS staff authorisation, why was Mr Kandhasamy still on the list dated 1<sup>st</sup> July 2023 noting he had also completed the staff training log. He then rephrased his question to ask if Mr Kandhasamy was still working at the shop 1<sup>st</sup> July 2023 as the documents implied that he was.

Mr Karaimuthu confirmed three people in total, including himself worked at the shop, he also confirmed Mr Kandhasamy was still working at the shop on 1<sup>st</sup> July but had finished working there at the end of July.

Mr Aston asked the agent to confirm if it was his suggestion to transfer the licence to Mr Karaimuthu; Mr Kanapathi said he had not.

The Solicitor checked whether the further information and questioning of the Licence Holder and agent had affected the Panel's decision, they advised it had not.

The Panel carefully considered the application for review and verbal submissions from West Sussex Trading Standards; the representations made by Sussex Police and West Sussex County Council Public Health; and verbal submissions and evidence regards ownership and management submitted at the hearing by the License Holder and his agent. It has taken into account the Mid Sussex District Council's Statement of Licensing Policy, the revised Home Office guidance issued under section 182 of the Licensing Act 2003, the duties under the Crime and

Disorder Act 1998 and the rights set out in the Human Rights Act 1998. All options for determination have been considered as per section 52 of the Licensing Act 2003.

### **Resolved**

The Panel decided that the Premises Licence no PWA0348 currently held by Mr Selvakkumar Karaimuthu, and previously held by Mr Kandeepan Kandhasamy until 5<sup>th</sup> May 2023, for K&A Enterprise at 118 South Road, Haywards Heath, RH16 4LT be revoked.

The Solicitor advised all attendees have the right to appeal against the Licensing Authority's Decision. Any appeal must be made to Brighton Magistrates' Court, The Law Courts, Edward Street, Brighton BN2 0LG, 01273 670888 and commenced by Notice of Appeal within 21 days of being notified of the decision, which is the 5<sup>th</sup> June 2023.

The meeting finished at 11.38 am

Chairman