

Meeting of:	Licensing Sub-Committee
Date of Meeting:	Wednesday, 17 July 2024
Relevant Scrutiny Committee:	Homes and Safe Communities
Report Title:	Review of a Premises Licence
Purpose of Report:	For the Sub-Committee to consider and determine an application under Section 51 the Licensing Act 2003 for the Review of an existing Premises Licence at DK Stores, 87 Court Road, Barry CF63 1ET.
Report Owner:	Licensing Authority
Responsible Officer:	Kirsty Evans, Licensing Team Manager
Elected Member and Officer Consultation:	Statutory Consultation
Policy Framework:	This is a matter for decision by the Licensing Act 2003 Sub-Committee
Executive Summary:	<p>For the Sub-Committee to consider and determine an application submitted by Licensing Enforcement to review the premises licence at D K Stores, 87 Court Road, Barry CF63 1ET under Section 51 of the Licensing Act 2003.</p>

Recommendations

1. The Sub-Committee is asked to determine the application having regard to the Council's Statement of Licensing Policy, the Guidance issued by the Home Office under Section 182 of the Licensing Act 2003, the application and any submissions.

The options available to the Sub-Committee are to take no action, or alternatively they may take any of the following steps if they consider appropriate for the promotion of the 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.

Reasons for Recommendations

1. To advise the Members of the relevant options available to them under the Licensing Act 2003 in determining the matter.

1. Background

- 1.1 The Licensing Authority has received an application to review premises licence PRM AS0663, pertaining to D K Stores, 87 Court Road, Barry CF63 1ET.

The review application is detailed in *Appendix A*.

- 1.2 The licence holder of premises licence PRM AS0663 is Deepak Kumar. The Designated Premises Supervisor (DPS) is Rajiv Datta.

A copy of the premises licence is detailed in *Appendix B*.

2. Key Issues for Consideration

- 2.1 In accordance with the requirements of the Licensing Act 2003, the application was served on the premises licence holder and copies of the application were forwarded to the Responsible Authorities.
- 2.2 During the statutory 28-day consultation period the application has been advertised in accordance with the regulations and no representations were received.
- 2.3 Section 51 of the Licensing Act 2003 provides that where a premises licence has effect, a responsible authority or any other person may apply to the relevant

licensing authority for the review of the licence. This must relate to a concern arising at the premises in connection with any of the four licensing objectives. This application details concerns that the premises have undermined the protection of children from harm licensing objective by selling alcohol to a person under the age of 18, as well as breaching licensing conditions relating to underage sales.

- 2.4** Before determining the application, the authority must hold a hearing to consider it and any relevant representations received.

3. How do proposals evidence the Five Ways of Working and contribute to our Well-being Objectives?

- 3.1** This report relates to a regulatory function of the Council.

4. Climate Change and Nature Implications

- 4.1** This report relates to a regulatory function of the Council.

5. Resources and Legal Considerations

Financial

- 5.1** Fees associated with the issue of Licences are set in statute and support the administration and enforcement of the Licensing Act 2003 functions.

Employment

- 5.2** None.

Legal (Including Equalities)

- 5.3** When determining the application the authority must, have regard to the application and any relevant representations. They may take any of the following steps:
- a) 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

(Section 51 (4) of the Licensing Act 2003)

- 5.4** Equally, the licensing authority may decide that the review does not require it to take any further steps appropriate to promoting the licensing objectives.
- 5.5** The Licensing Act 2003 (Section 4) states that it is the duty of all Licensing Authorities to carry out their functions under the Act with a view to promoting the licensing objectives. The licensing objectives are:
- a) The prevention of crime and disorder
 - b) Public Safety
 - c) The prevention of public safety
 - d) Protection of children from harm

Each objective is of equal importance and should be of paramount consideration at all times.

- 5.6** Section 4(3) Licensing Act 2003 states that the Licensing Authority should have regard to the Council's Statement of Licensing Policy, the Statutory guidance issued under Section 182 of the Licensing Act 2003 and the Licensing Act itself, in this case in particular to:
- a) Paragraphs 1, 2, 3, 8, 9, 11, 12, 16 and 18. There is no specific policy relating to the area for this type of application.
 - b) Chapters 2, 11, 13 and 14 of the Statutory guidance, as revised December 2023.
 - c) Sections 51, 51, 53, 182 and 183 of the Licensing Act 2003.
- 5.6** It is likely that the parties involved will be providing additional evidence as permitted under the Licensing Act 2003 (Hearings) Regulations 2005. Regulation 18 permits that in considering any representations or notice made by a party the authority may take into account documentary or other information produced by a party in support of their application, representation or notice (as applicable) either before the hearing or, with the consent of all the other parties at the hearing. This will be confirmed at the start of the meeting.

6. Background Papers

The Licensing Act 2003

The Secretary of State's Guidance issued under Section 182 of the Licensing Act 2003 Regulations to the 2003 Act

Vale of Glamorgan Council's Statement of Licensing Policy.

**Application for the review of a premises licence or club premises certificate under the
Licensing Act 2003**

PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST

Before completing this form please read the guidance notes at the end of the form.
If you are completing this form by hand please write legibly in block capitals. In all cases ensure that your answers are inside the boxes and written in black ink. Use additional sheets if necessary. You may wish to keep a copy of the completed form for your records.

I Licensing Enforcement (Shared Regulatory Services)

(Insert name of applicant)

apply for the review of a premises licence under section 51 / apply for the review of a club premises certificate under section 87 of the Licensing Act 2003 for the premises described in Part 1 below (delete as applicable)

Part 1 – Premises or club premises details

Postal address of premises or, if none, ordnance survey map reference or description D K Stores 87 Court Road	
Post town Barry	Post code (if known) CF63 1ET

Name of premises licence holder or club holding club premises certificate (if known) Deepak Kumar

Number of premises licence or club premises certificate (if known) PRM AS0663

Part 2 - Applicant details

I am

Please tick ✓ yes

1) an individual, body or business which is not a responsible authority (please read guidance note 1, and complete (A) or (B) below)

2) a responsible authority (please complete (C) below)

✓

3) a member of the club to which this application relates (please complete (A) below)

(A) DETAILS OF INDIVIDUAL APPLICANT (fill in as applicable)

Please tick ✓ yes

Mr

Mrs

Miss

Ms

Other title
(for example, Rev)

Surname

First names

Please tick ✓ yes

I am 18 years old or over

**Current postal
address if
different from
premises
address**

Post town

Post Code

Daytime contact telephone number

**E-mail address
(optional)**

(B) DETAILS OF OTHER APPLICANT

Name and address

Telephone number (if any)

E-mail address (optional)

(C) DETAILS OF RESPONSIBLE AUTHORITY APPLICANT

Name and address Mrs Ilaria Agostini-Green SRS – Licensing (Enforcement) Vale of Glamorgan Council Civic Offices Holton Road Barry CF63 4RU
Telephone number (if any) 01446 709782
E-mail address (optional) iagostini-green@valeofglamorgan.gov.uk

This application to review relates to the following licensing objective(s)

- Please tick one or more boxes ✓
- | | |
|---|---|
| 1) the prevention of crime and disorder | |
| 2) public safety | |
| 3) the prevention of public nuisance | |
| 4) the protection of children from harm | ✓ |

Please state the ground(s) for review (please read guidance note 2)

As an Officer employed by Shared Regulatory Services (SRS) I am making this application for the review of the Premises Licence, reference number PRM AS0663, relating to D K Stores, 87 Court Road, Barry, CF63 1ET on behalf of the Enforcement team of the Licensing Authority.

The basis for this application is as follows:

On the evening of Friday, 22nd December 2023, a young person entered the premises and purchased alcohol without being challenged on their age.

This was not the first occasion that an underage sale has taken place at the premises; the premises has failed in their due diligence in respect of underage sales and therefore undermining the licensing objective; the protection of children from harm.

Please provide as much information as possible to support the application (please read guidance note 3)

In September 2021 the Licensing Office was notified by Trading Standards that on 21st July 2021 an operation into the sale of age restricted products to children was conducted in the Barry area in conjunction with South Wales Police. A sixteen-year-old volunteer was used to test the premises known as DK Stores, 87 Court Road, Barry. The volunteer was sold 3 cans of cider, and no checks were made to verify his age. During the recorded interview, it was also revealed that the premises was in breach of multiple licence conditions, and it was concluded that the Licence Holder and Designated Premises Supervisor (DPS) at the time, namely Mr Deepak Kumar, had a complete lack of knowledge of anything licence related.

Following the notification, a visit was carried out by Licensing Enforcement Officers on 15th September 2021. The visit revealed a number of the Premises Licence Conditions not being complied with. A warning letter, dated 16th September 2021, was sent to Mr Kumar requesting 1) compliance of the conditions by no later than 23rd September 2021, and 2) an application to vary the DPS be submitted to the Licensing Office by no later than 31st October 2021.

Another visit was carried out by Licensing Enforcement Officers on 15th October 2021. The visit revealed a number of conditions still not being complied with. During the visit, Mr Kumar informed the officers that he never received the letter dated 16th September 2021. A second warning letter dated 21st October 2021 was sent to Mr Kumar requesting compliance of the conditions, together with the submission of an application to vary the DPS, to be completed by no later than 15th November 2021. The letter also outlined that failure to comply with these requests within the prescribed time could result in a review of the premises licence.

On 25th November 2021 an application to vary the DPS was received by the Licensing Office nominating Mr Kumar's wife, Mrs Datta, as the new DPS, and compliance with the licence conditions was attained.

On 19th August 2022 Mr Kumar attended the Magistrates Court in respect of the 21st July 2021 offence. Mr Kumar pleaded guilty to 2 offences under the Licensing Act 2003 and was fined £307 per offence giving a total fine of £614. He was also ordered to pay costs of £500 and a victim surcharge of £61.

On 28th December 2023 a complaint was received by the Licensing Office from a member of the public alleging that on 22nd December 2023, approximately 6pm, her 14-year-old daughter went out with her friend, also a 14-year-old girl. Both girls got intoxicated after drinking alcohol that was purchased by the complainant's daughter's friend at the shop on Court Road, Barry. The complainant's daughter had to be taken to the A&E department of the University Hospital of Wales where she was checked and afterwards released. The complainant provided a video footage of the day showing her daughter with her friend, who was wearing a grey top with a 'Nirvana' logo printed across it, being intoxicated.

An investigation followed and CCTV footage of the day, from inside D K Stores, was requested. The CCTV footage was duly provided, and it captured a young girl entering the shop on 22nd December 2023, at 18:19 hours, wearing a grey top with a 'Nirvana' logo printed across it. The girl was identified as one of the two girls in the video footage provided by the complainant. The CCTV footage also captured the girl purchasing two bottles of what appears to be vodka and another restricted item, which appears to be an e-cigarette.

Mr Kumar was later interviewed under the Police and Criminal Evidence Act (PACE) 1984 and admitted to the offence. He apologised and stated the employee who made the sale of alcohol to the young girl was reprimanded and his employment terminated. Mr Kumar accepted that no reasonable steps to establish the individual age were taken. During the interview, Mr Kumar also stated that staff training is not documented, contrary to Condition 5 of the Premises Licence, which states:

“That all persons working at the premises to be trained in the sale of alcohol and that this training to be documented and available to Trading Standards or South Wales Police on request. Refresher training should be provided at least biannually.”

In the light of the continuing breaching of the Premises Licence Conditions and the inaction of the Premises Licence Holder to rectify any item of non-compliance, Licensing Enforcement see that there is now no other option but to review the Premises Licence.

If the Sub-Committee are minded not to revoke the premises licence, we would ask that the following conditions are imposed on the premises licence in relation to the Protection of Children from Harm licensing objective:

1. A till with an automatic ‘age prompt’ shall be used at all times to assist staff carrying out age verification in respect of alcohol sales, and other age restricted products (to be installed within 2 months of decision).
2. A contact telephone number for the Premises Licence Holder/Designated Premises Supervisor or another nominated person shall be made available at all times when the shop is selling alcohol. The telephone number shall be made available to residents, customers and responsible authorities.
3. In the absence of the Designated Premises Supervisor a nominated person shall be in control of the premises – this nomination will be in writing and a record or this will be available for inspection.
4. All staff selling alcohol shall be authorised in writing to sell alcohol and a record of the authorisation will be kept in the shop available for inspection by authorised persons.
5. All staff authorised to sell alcohol shall be provided with training on first appointment and then refresher training shall be provided quarterly. Training will include information on age restrictions/Challenge 25, the sale of alcohol to somebody who is drunk, and proxy sales. A written record of all training carried out shall be kept. These records shall be made available for inspection by the Police and the Local Authority on request. *(to replace current training condition)*
6. A notice(s) shall be clearly displayed in and at the entrance to the premises advising customers that there is a Challenge 25 policy in place.

Appendix A

7. A due diligence checklist (aimed at preventing any underage sales and maintaining good records) shall be kept available for inspection by the Police and other authorised officers.

8. A notice(s) shall be displayed in the premises where they can be seen clearly to advise customers that it is unlawful for persons under 18 to purchase alcohol or for any persons to purchase alcohol.

Appendix A

Please tick ✓ yes

Have you made an application for review relating to the premises before

If yes please state the date of that application

Day	Month	Year
<input type="text"/>	<input type="text"/>	<input type="text"/>

If you have made representations before relating to the premises please state what they were and when you made them

N/A

Appendix A

Please tick ✓

yes

- I have sent copies of this form and enclosures to the responsible authorities and the premises licence holder or club holding the club premises certificate, as appropriate
- I understand that if I do not comply with the above requirements my application will be rejected

IT IS AN OFFENCE, UNDER SECTION 158 OF THE LICENSING ACT 2003, TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION. THOSE WHO MAKE A FALSE STATEMENT MAY BE LIABLE ON SUMMARY CONVICTION TO A FINE OF ANY AMOUNT.

Part 3 – Signatures (please read guidance note 4)

Signature of applicant or applicant’s solicitor or other duly authorised agent (please read guidance note 5). **If signing on behalf of the applicant please state in what capacity.**



Signature

.....

Date 24th May 2024

.....

Capacity Senior Licensing Officer (Enforcement)

.....

Contact name (where not previously given) and postal address for correspondence associated with this application (please read guidance note 6)

Post town

Post Code

Telephone number (if any)

If you would prefer us to correspond with you using an e-mail address your e-mail address (optional) iagostini-green@valeofglamorgan.gov.uk

Licensing Act 2003
Premises Licence

PRM AS0663

LOCAL AUTHORITY



The Vale of Glamorgan Council

Civic Offices
 Holton Road
 Barry
 Vale of Glamorgan
 CF63 4RU

Licensing@valeofglamorgan.gov.uk

tel: 01446 709105

web: www.valeofglamorgan.gov.uk

Part 1 - Premises Details

POSTAL ADDRESS OF PREMISES, OR IF NONE, ORDNANCE SURVEY MAP REFERENCE OR DESCRIPTION

D K Stores

87 Court Road, Barry, Vale of Glamorgan, CF63 1ET.

Telephone 07440597725

WHERE THE LICENCE IS TIME LIMITED THE DATES

Not applicable

LICENSABLE ACTIVITIES AUTHORISED BY THE LICENCE

- the supply of alcohol

THE TIMES THE LICENCE AUTHORISES THE CARRYING OUT OF LICENSABLE ACTIVITIES

Activity (and Area if applicable)	Description	Time From	Time To
J. Supply of alcohol for consumption OFF the premises only	Monday to Saturday	7:00am	9:00pm
	Sunday	9:00am	9:00pm

THE OPENING HOURS OF THE PREMISES

Description	Time From	Time To
Monday to Saturday	7:00am	9:00pm
Sunday	9:00am	9:00pm

WHERE THE LICENCE AUTHORISES SUPPLIES OF ALCOHOL WHETHER THESE ARE ON AND / OR OFF SUPPLIES

- J. Supply of alcohol for consumption OFF the premises only



Licensing Act 2003
Premises Licence

PRM AS0663

Part 2

NAME, (REGISTERED) ADDRESS, TELEPHONE NUMBER AND EMAIL (WHERE RELEVANT) OF HOLDER OF PREMISES LICENCE

Deepak Kumar

87 Court Road, Barry, Vale of Glamorgan, CF63 1ET.

REGISTERED NUMBER OF HOLDER, FOR EXAMPLE COMPANY NUMBER, CHARITY NUMBER (WHERE APPLICABLE)

NAME, ADDRESS AND TELEPHONE NUMBER OF DESIGNATED PREMISES SUPERVISOR WHERE THE PREMISES LICENCE AUTHORISES THE SUPPLY OF ALCOHOL

Rajiv DATTA

[REDACTED]

PERSONAL LICENCE NUMBER AND ISSUING AUTHORITY OF PERSONAL LICENCE HELD BY DESIGNATED PREMISES SUPERVISOR WHERE THE PREMISES LICENCE AUTHORISES FOR THE SUPPLY OF ALCOHOL

Licence No. PL1978

Issued by Vale of Glamorgan



ANNEXES**ANNEX 1 - MANDATORY CONDITIONS****Supply of Alcohol**

1. No supply of alcohol may be made under the premises licence-
 - (a) at a time when there is no designated premises supervisor in respect of the premises licence, or
 - (b) at a time when the designated premises supervisor does not hold a personal licence, or his personal licence is suspended.
2. Every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence

Age verification Policy

- (1) The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.
- (2) The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.
- (3) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either-
 - (a) a holographic mark, or
 - (b) an ultraviolet feature.

Minimum Pricing

1. A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.
2. For the purposes of the condition set out in paragraph 1-
 - (a) "duty" is to be construed in accordance with the Alcoholic Liquor Duties Act 1979;
 - (b) "permitted price" is the price found by applying the formula-



Licensing Act 2003

Premises Licence**PRM AS0663**

ANNEXES continued ...

ANNEX 2 - CONDITIONS CONSISTENT WITH THE OPERATING SCHEDULE

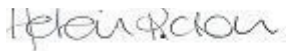
1. That the premises operates a minimum of a Challenge 25 policy and that signage in store reflects this policy.
2. That the premises operates a refusals register and all refusals and alcohol related incidents be recorded in this register. The register should be made available to Trading Standards or South Wales Police on request. The register should be audited by a manager on a regular basis. These records should be retained for 36 months.
3. A digital CCTV system to cover all areas of the licensed premises to which the public have access, including any entrances and exits but excluding toilets. CCTV footage is to be kept for at least 31 days and should be made available to Trading Standards or South Wales Police on request. This CCTV system should meet a required standard which South Wales Police deem appropriate and should be capable of providing images to evidential standard.
4. All staff selling alcohol should be authorised in writing to do so by the Designated Premises Supervisor.
5. That all persons working at the premises to be trained in the sale of alcohol and that this training to be documented and available to Trading Standards or South Wales Police on request. Refresher training should be provided at least biannually.

ANNEX 3 - CONDITIONS ATTACHED AFTER A HEARING BY THE LICENSING AUTHORITY

None.

ANNEX 4 - PLANS

N/A




H Picton
Head of Shared Regulatory Services

