

Licensing Sub-Committee
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Licensing Service

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Our Ref: 17/03844/LAREVI

Date: 27 September 2017

Dear Members of the Licensing Sub-Committee

**Re: Licensing Act 2003 - Application for the review of a premises licence
Om Sai (aka Loco) 139 Queen Street Portsmouth PO1 3HY**

I refer to the recent application by Trading Standards for the review of a premises licence in respect of the premises known as Om Sai (aka Loco) and situated at 139 Queen Street, Portsmouth, PO1 3HY.

On behalf of the Licensing Authority, I would wish to make formal representations in relation to the application on the following grounds:

- Prevention of crime and disorder; and
- Protection of children from harm.

The review application comprehensively sets out the poor history of management and supervision of these premises in respect of alcohol sales and without wishing to repeat the information contained within the review application, I have set out below the timeline of problems associated with these premises to evidence the concerns of the Licensing Authority.

29 October 2008	Application for the grant of a premises licence made to the Licensing Authority by Naynaben Patel. Application refused by the Licensing Sub-Committee following relevant representations from Trading Standards and residents living in the vicinity of the premises.
20 May 2009	Further application by Naynaben Patel for the grant of a premises licence. Further representations made by residents living in the vicinity of the premises. Application granted by the Licensing Sub-Committee.

20 January 2010	Application for the review of the premises licence submitted by Trading Standards following 2 failures of test purchases in respect of the sale of alcohol to children, 2 other incidents of underage sales and deficiencies associated with under age sales training. The review application was considered by the Licensing Sub-Committee who determined: <ul style="list-style-type: none"> • Removal of the DPS (Naynaben Patel); • Suspension of the licence for 3 months; • Attach further conditions as proposed by Trading Standards.
4 February 2010	Application to vary the DPS to Mr Satishchandra Patel received and granted as per the 2003 Act;
28 September 2011	Application for a minor variation to the premises licence to amend conditions on the licence - Approved;
28 March 2012	Application to vary the DPS back to Mrs Naynaben Patel. Application granted as no objections from the Police;
9 March 2017	Alcohol sale made to an adult without a personal licence holder present on the premises - BREACH OF CONDITION;
10 March 2017	Failed test purchase in respect of the sale of alcohol to children;
23 April 2017	Further test purchase in respect of the sale of alcohol to children - premises passed but defined as a "poor refusal";
14 July 2017	Failed test purchase in respect of the sale of alcohol to children;

In addition to the above evidence, there have been significant attempts by Trading Standards to engage with the licence holder to ensure compliance with the licence conditions and the Licensing Act 2003 but without due success.

It is of grave concern that there has been an extremely poor history of test purchase failures, breaches of conditions and lack of engagement by the licence holder (who is also the DPS) in respect of the sale of alcohol at these premises.

Despite the best efforts of the Trading Standards Service to educate and inform the licence holder, it would appear that this advice has gone unheeded and offences are still being committed.

Paragraph 11.30 of the Statutory Guidance issued in accordance with section 182 of the 2003 Act provides specific guidance to licensing authorities in respect of a review of a premises licence following persistent sales of alcohol to children. It states:

"The Government recognises that the majority of licensed premises operate responsibly and undertake due diligence checks on those who appear to be under the age of 18 at the point of sale (or 21 and 25 where they operate a Challenge 21 or 25 scheme). Where these systems are in place licensing authorities may wish to take a proportionate approach in cases where there have been two sales of alcohol within very quick succession of one another (e.g., where a new cashier has not followed policy and conformed with a store's age verification procedures). However, where persistent sales of alcohol to children have occurred at premises, and it is apparent that those managing the premises do not operate a responsible policy or have not exercised appropriate due diligence, responsible authorities should consider taking steps to ensure that a review of the licence is the norm in these circumstances. This is particularly the case where there has been a prosecution for the offence under section 147A or a closure notice has been given under section 169A of the 2003 Act. In determining the review, the licensing authority should consider revoking the licence if it considers this appropriate".

The Licensing Authority has a range of powers at its disposal which it may exercise on determining a licence review where it considers them appropriate for the promotion of the licensing objectives. However, paragraph 11.18 of the statutory guidance advises:

"Where responsible authorities such as the police or environmental health officers have already issued warnings requiring improvement - either orally or in writing - that have failed as part of their own stepped approach to address concerns, licensing authorities should not merely repeat that approach and should take this into account when considering what further action is appropriate"

In considering what steps are appropriate in respect of this particular application, members should take into account that on the previous review in 2010, additional conditions were added to the licence, a suspension was put into effect, the DPS was removed.

Despite these sanctions and further efforts by the Trading Standards Service to bring about improvements, this has not happened and, taking all relevant factors into account, it is respectfully proposed that these premises are trading irresponsibly and that the Licensing Sub-Committee should not hesitate to take tough action to tackle the problems at the premises and, where other measures are deemed insufficient (and in accordance with paragraph 11.23 of the Guidance), should revoke the licence.

Yours sincerely

A black rectangular box redacting the signature of Nickii Humphreys.

**Nickii Humphreys
Licensing Manager**

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