

Attendance

Chair

Cllr Alan Bolshaw (Lab)

Sub-Committee Members

Cllr Rita Potter
Cllr Patricia Patten

Review Applicant

Paul Dosanjh

Section Leader – Trading Standards

Employees

Sarah Hardwick
Chris Howell
Jonathan Lloyd
Donna Cope

Senior Solicitor
Licensing Manager
Licensing Officer
Democratic Services Officer

Responsible Authorities

Acting Inspector Lee Davies
Elaine Moreton
Parpinder Singh

West Midlands Police
Section Leader - Licensing
Public Health Development Officer

Premises Licence Holder

Alan Surche

Other Persons

Sgt Steph Reynolds
PC Michelle Churm
Marion Brennan

West Midlands Police
West Midlands Police
Express and Star

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 Review of a Premises Licence in respect of Lime Street Continental, 130 Lime Street, Pennfields, Wolverhampton, WV3 0EX

An application for a review of a Premises Licence in respect of Lime Street Continental, 130 Lime Street, Penn Fields, Wolverhampton, WV3 0EX, had been received from the City of Wolverhampton Council's Trading Standards.

The Chair led round-table introductions and outlined the procedure to be followed.

Chris Howell, Licensing Manager, provided an outline of the application. Alan Surche, Premises Licence Holder, confirmed that the summary was accurate.

Paul Dosanjh, Service Lead, Trading Standards, stated the grounds for review as per Appendix 3 of the report.

The Chair afforded all parties present the opportunity to question the Review applicant in relation to its representation. Mr Dosanjh provided responses to questions asked.

The Chair invited the Premises Licence Holder to make representations. Mr Surche stated the following:

- The premises had a new licence under new management;
- He was not aware of the history of the premises;
- The illegal tobacco was not his. It belonged to tenants at the premises and other members of staff.

The Chair invited all parties present to question the Premises Licence Holder in relation to his submission. Mr Surche provided the following responses:

- He had access to the upstairs of the premises but didn't go there often;
- Staff currently working at the premises had not worked for the previous management;
- He had not had contact with the previous management;
- He was always present on the premises;
- The tenants upstairs were sub-letting and had been there 5 months;
- The chute was closed and he had never used it.

The Chair invited West Midlands Police to make representations. Acting Inspector Lee Davies did so as per Appendix 4 of the report.

The Chair invited all parties present to question West Midlands Police in relation to its submission. Acting Inspector Davies provided responses to questions asked.

The Chair invited Public Health to make representations. Mr Parpinder Singh did so as per Appendix 6 of the report.

The Chair invited all parties present to question Public Health in relation to its submission. Mr Singh provided responses to questions asked.

The Chair invited the Licensing Authority to make representations. Mrs Elaine Moreton did so as per Appendix 5 of the report.

The Chair invited all parties present to question the Licensing Authority in relation to its submission. Mrs Moreton provided responses to questions asked.

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

Elaine Moreton, Acting Inspector Lee Davies, Paul Dosanjh and the Premises Licence Holder made closing statements.

All interested parties, with the exception of the Senior Solicitor and the Democratic Services Officer, withdrew from the meeting to enable the Sub-Committee to determine the matter.

All interested parties were invited back to the meeting and the Chair advised them of the decision of the Sub-Committee, which was read out in full by the Senior Solicitor.

Resolved:

An Application was made by the City of Wolverhampton Trading Standards for a review of the Premises Licence in respect of Lime Street Continental.

At the hearing to review the premises licence, members of the Licensing Sub-Committee considered all written evidence and listened carefully to all representations made by persons who spoken at the hearing. They considered all the evidence presented and found the following facts:

It was heard from the applicant that:

1. There was a history with the premises. The Licensing Sub-Committee had seen from the papers provided that counterfeit goods were discovered during visits to the premises in 2016.
That had led to a review of the premises licence on 21.2.17 under provisions of the LA 2003. Written evidence stated that on that occasion the Licensing Sub-Committee referred to gross mismanagement of the premises and blatant disregard for premises licence conditions. The premises licence was revoked. It was noted that at that time Mr Alan Surche was not the premises licence holder (PLH) or designated premises supervisor (DPS).

Yet it appeared the culture of the premises management was such that the premises licence was again being reviewed for the same reason as before.

2. On 6 October 2017, following receipt of intelligence that illicit cigarettes and tobacco were being sold from the premises (the subject of this review), Trading standards visited the premises, discovered and seized a quantity of counterfeit and non-duty paid tobacco products. To knowingly keep or allow to be kept on relevant premises, goods that were imported without duty paid or which had otherwise been unlawfully imported was an offence under section 144 of the Licensing Act 2003. It had been emphasised that mere possession of counterfeit products or illicit tobacco was an offence.
3. A chute was discovered at the premises which it was believed had been used to move tobacco products between the first floor and shop. Notes taken by the trading standards officer who attended on 6 October stated that a plastic bag was put down the chute indicating it was working.
4. There was a degree of disorganisation within the business. A confusing business model but ultimately responsibility under the Licensing Act lay with Mr Surche, PLH and DPS.
5. This was serious criminal activity and therefore the applicant requested revocation of the licence.

It was heard from Alan Surche, PLH and DPS that:

1. This was a new licence.
2. He had not intended to do this.
3. Others worked at the shop and it was their tobacco. He had never used the chute at the premises.
4. He had no knowledge of the history at the premises.
5. Staff currently working at the premises had not worked for the previous management.
6. He had not had contact with the previous management.

It was heard from West Midlands Police that:

1. The police authority supported the application of Trading Standards.
2. There was evidence of criminal behaviour which had occurred at the premises on previous occasions and given the history they were not satisfied Mr Surche was unaware of the criminality which had continued.
3. There had been disregard for the law.
4. Revocation of the premises licence was appropriate.

It was heard from Mrs Moreton, Licensing Authority that:

1. The authority supported the application of Trading Standards.
2. There had been a disregard for the law and failure of management at the premises to uphold the licensing objectives.
3. Public safety issues existed as a result of the criminal activity.
4. Revocation of the premises licence was appropriate.

It was heard from Public Health that:

1. They supported the application of Trading Standards.

2. The criminal activity did not promote public health objectives relating to smoking.

The Sub-Committee could take such steps as it considered appropriate for the promotion of the Licensing Objectives.

Paragraphs 11.27 and 11.28 of the revised Guidance under s182 of the Licensing Act 2003 provided premises that had been used for the criminal activity of the sale or storage of smuggled tobacco should be treated particularly seriously, and where reviews arose and it was determined that the prevention of crime and disorder licensing objective was being undermined through the premises being used to further crime, it was expected that revocation of the premises licence should be seriously considered, even in the first instance.

This was a first instance for the Premises licence holder but not for the premises.

The Sub-Committee were satisfied that criminal activity had taken place at the premises and that the prevention of crime and disorder licensing objective was being undermined through the premises being used to further crimes. Further they were satisfied that the activity did not promote the public safety licensing objective.

Based upon the evidence presented and having regard to the application, representations made, guidance issued under section 182 of the Licensing Act 2003 and the Council's own licensing policy, the Sub-Committee had on the balance of probabilities, found that in order to promote the prevention of crime and disorder and public safety licensing objectives the premises licence of Lime Street Continental should be revoked in accordance with Section 52 of the Licensing Act 2003.

This action was considered appropriate and proportionate action for the promotion of the crime and disorder and public safety licensing objectives.

Written notice of the determination would be given to the holder of the licence, the applicant, and any other person who made relevant representations.

An appeal could be made against the decision by the applicant, the holder of the Premises Licence or any other person who made a relevant representation to the application, within 21 days from the day on which notice of the decision was given.