

Statutory Licensing Sub-Committee

Minutes - 27 October 2022

Attendance

Members of the Statutory Licensing Sub-Committee

Cllr Phil Page (Chair)

Cllr Gillian Wildman

Cllr Rashpal Kaur

Applicant for Review

Sgt Steph Reynolds

Flynn Neal

Kayley Nixon

Premises Licence Holder

Mr Narinderjit Malhi

Responsible Authorities

Greg Bickerdike

Lee Jenks

Nilusha Sahni

Licensing Authority

Trading Standards

Public Health

Employees

Elizabeth Gregg

Angela Bernard

Donna Cope

David Abel

Senior Licensing & Compliance Officer

Solicitor

Democratic Services Officer

Solicitor (Observing)

Item No. *Title*

1 Apologies for absence

Apologies for absence were received from Dianne Slack (Trading Standards) and Amitabh Singh (Licensing Authority).

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 Sunny's Superstore, 14 Cleveland Street, Wolverhampton, WV1 3HH

An application for a Review of a Premises Licence in respect of Sunny's Superstore, 14 Cleveland Street, Wolverhampton, WV1 3HH had been received from West Midlands Police.

The Chair welcomed all parties to the hearing and invited all those present to introduce themselves. All parties did so. He outlined the procedure to be followed and all parties confirmed that they understood the procedure.

The Sub-Committee's statutory duty was to consider the application and any representations, and to take such steps as contained in the Licensing Act 2003 as it considered appropriate for the promotion of the Licensing Objectives.

Elizabeth Gregg, Senior Licensing and Compliance Officer, provided an outline of the application. Sgt Steph Reynolds, West Midlands Police, (Applicant), confirmed that the summary was accurate.

The Chair invited West Midlands Police to present their application.

Sgt Steph Reynolds reported that the previous day, West Midlands Police had circulated a link, via email, containing CCTV footage of the premises. She queried whether the email had been received and whether the footage could be played at the hearing.

The Chair sought legal advice on the matter, and Angela Bernard, Solicitor and legal advisor to Members, stated that the CCTV footage had not been submitted in an acceptable format, and therefore no-one, including the Premises Licence Holder had been able to view it. She further noted that a written statement detailing the CCTV footage was contained within the reports pack, circulated to all parties prior to the hearing, and on that basis, she advised Members to continue with the hearing and disallow the CCTV footage.

All parties agreed and the hearing continued.

Sgt Steph Reynolds outlined her application as per Appendix 3 of the report and stated the following:

1. Sunny's Superstore were serving alcohol to beggars and known street drinkers who were intoxicated on a regular basis, and this was adding to the anti-social behaviour in the area.
2. On a number of occasions, the neighbourhood police team had gone into the shop and warned the Designated Premise Supervisor not to sell to them again. However, moments after being told, Officers had seen the staff still serving alcohol; blatantly ignoring the Licensing Objective of Prevention of Crime and Disorder. As the alcohol is so cheap and easily available in single cans, once Officers leave the vicinity due to being called to another job, they go and purchase another can despite the Premise License Holder and Designated Premise Supervisor being informed.
3. Selling single cans of beer, lager and cider at a high strength for a reduced price would constitute to irresponsible drink promotions. It was also outlined in Section 141 of the Licensing Act 2003 that it was an offence to sell alcohol to a person who is drunk or knowingly allow alcohol to be sold to such person on licensed premises.
4. There had been alcohol related anti-social behaviour related to these premises under a previous licensee.
5. West Midlands Police were doing all they could to try and stop the anti-social behaviour on Cleveland Street and to change the reputation it currently had and to try and encourage people to come into the city. They had issued the street drinkers and beggars with Community Protection Warnings (CPW's) to stop them going into the shop and buying single cans to get intoxicated with, along with enforcing the Public Space Protections Order which covered St Peters. The premises had been made aware of this but continued to supply them with alcohol.
6. West Midlands Policed believed that the Licensing Objectives of the Prevention of Crime and Disorder and The Protection of Children from Harm had been undermined by the way in which the premises operated and therefore the Premises Licence should be revoked.

The Chair afforded all parties present the opportunity to question West Midlands in relation to their submission. Sgt Reynolds responded to questions asked.

The Chair invited the Premises Licence Holder to make representations. Mr Narinderjit Malhi, did so. He stated the following:

1. He was not the Premises Licence Holder in 2020.
2. He had previously assisted West Midlands Police with enquires.
3. He had refused to serve beggars and street drinkers numerous times.
4. If they were banned from the store other people bought alcohol for them and if he refused them, they would go elsewhere.

The Chair afforded all parties present the opportunity to question the Premises Licence Holder in relation to his submission. Mr Malhi responded to questions asked and stated the following:

1. He disputed the evidence provided by West Midlands Police.
2. His refusals book was up to date.
3. He understood the problem and refused to serve drunk people.

4. He was unable to complete the refusals book during busy periods.
5. He had trained his staff not to serve drunk people.
6. He did not know the challenge 25 scheme.

At the request of the Chair, Mr Malhi produced the refusals book, which was then viewed by the Committee and the Responsible Authorities.

The Chair invited the Licensing Authority to make representations. Greg Bickerdike, Licensing Manager, did so as per Appendix 4 of the report. He stated that the Licensing Authority supported the application for review and believed that the actions at the premises had undermined the Licensing Objectives. He stated that if the Premises Licence was not revoked it should be modified with further conditions.

The Chair invited all parties present to question the Licensing Authority in relation to its submission. Mr Greg Bickerdike responded to questions asked.

The Chair invited Trading Standards to make representations. Lee Jenks, Trading Standards Team Leader did so as per Appendix 5 of the report. He stated that Trading Standards supported the application to review, and the discovery of illicit products illustrated that no regard had been considered for the Licensing Objectives.

The Chair invited all parties present to question Trading Standards in relation to its submission. Mr Lee Jenks responded to questions asked.

The Chair invited Public Health to make representations. Nilusha Sahni, Senior Public Health Specialist did so as per Appendix 6 of the report. She stated that Public Health supported the application for review and believed that the actions at the premises had undermined the Licensing Objectives. She stated that efforts by the West Midlands Police had not improved the licensee's regard for public safety and the licence should be revoked or have conditions added.

The Chair invited all parties present to question Public Health in relation to its submission. No questions were asked.

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

The Licensing Authority, Premises Licence Holder and West Midlands Police made a final statement.

Angela Bernard, Solicitor, provided legal guidance to Members and reminded them of their available options.

Mr Narinderjit Malhi, Sgt Steph Reynolds, Flynn Neal, Kayley Nixon, Greg Bickerdike, Lee Jenks, Nilusha Sahni and Elizabeth Gregg withdrew from the meeting to enable the Sub-Committee to determine the matter.

The Sub-Committee adjourned at 12.23 hours.

The Hearing reconvened at 13.39 hours.

Mr Narinderjit Malhi, Sgt Steph Reynolds, Flynn Neal, Kayley Nixon, Greg Bickerdike, Lee Jenks, Nilusha Sahni and Elizabeth Gregg re-joined the meeting.

The Chair advised all parties of the decision of the Sub-Committee, which was read out by the Solicitor.

Resolved:

An application was made by West Midlands Police as a Responsible Authority on 5th September 2022 for a review of the Premises Licence in respect of Sunny's Superstore, 14 Cleveland Street, Wolverhampton, WV1 3HH on the grounds that actions at the premises undermined the Licensing Objectives. Representations had been received from the West Midlands Police, Licensing Authority, Trading Standards and Public Health as Responsible Authorities and from the Premises Licence Holder Mr Narinderjit Malhi.

At the hearing on 27 October 2022 to review the premises licence, members of the Statutory Licensing Sub-Committee considered all written evidence and listened carefully to all representations made by persons who had spoken at the hearing.

The Licensing Sub-Committee heard from Sgt Reynolds of West Midlands Police, the applicant for review, that:

1. Sunny's Superstore, Cleveland Street were serving alcohol to beggars and known street drinkers who were intoxicated on a regular basis.
2. On a number of occasions, the neighbourhood team had gone into the shop and warned the Designated Premise Supervisor not to sell to them again. However, moments after being told, Officers had seen the staff still serving alcohol; blatantly ignoring the Licensing Objective of Prevention of Crime and Disorder. As the alcohol was so cheap and easily available in single cans, once Officers left the vicinity, they purchased another can despite the Premise License Holder and Designated Premise Supervisor being informed.
3. Selling single cans of beer, lager and cider at a high strength for a reduced price would constitute to irresponsible drink promotions. It was also outlined in Section 141 of the Licensing Act 2003 that it was an offence to sell alcohol to a person who was drunk or knowingly allow alcohol to be sold to such person on licensed premises.
4. Sgt Reynolds presented background evidence of alcohol related anti-social behaviour related to these premises under a previous licensee.
5. West Midlands Police were doing all they could to try and stop the anti-social behaviour that was being caused on Cleveland Street and to change the reputation it currently had and to try and encourage people t into the city. They had issued the street drinkers and beggars with Community Protection Warnings (CPW's) to stop them going into the shop and buying single cans to get intoxicated with, along with enforcing the Public Space Protections Order which covered St Peters. The premises had been made aware of this but continued to supply them with alcohol
6. West Midlands Policed believe that the Licensing Objectives of the Prevention of Crime and Disorder and The Protection of Children from Harm had been undermined by the way in which the premises operates and therefore the Premises Licence should be revoked.

The Licensing Sub-Committee heard from Greg Bickerdike for the Licensing Authority that they supported the Application for Review and believed that the actions at the premises undermined the Licensing Objectives and therefore the Premises Licence should be modified with the following conditions added:

Prevention of crime and disorder

- Any supply of alcohol for consumption off the premises must be within a sealed container.
- Beer, cider and mixed drinks (such as cocktails and alcopops) are to be stocked and sold in multipacks of a minimum of four units. Multipacks must not be split.
- Sales of alcohol are not to include any super strength lagers, beers or ciders where strength exceeds 6.5% ABV (alcohol by volume).
- Prevention of public nuisance An A4 Public Space Protection Order (PSPO) notice, provided by the Licensing Authority will be displayed prominently on the premises, visible from outside of the premises.

Protection of children from harm

- The Challenge 25 scheme will be operated to ensure that any person who appears to be under the age of 25 will provide documented proof that they are over 18 years of age.
- Proof of age will only comprise a passport, photocard driving licence, an EU/EEA national ID card or a card bearing the PASS hologram.

In addition, amend the following existing conditions

From:

- All staff will be trained and regularly refreshed in the challenge 25 policy Staff will be provided refresher training challenge 25 every 6 months. This will be recorded and provided to the police or any member of the relevant authority on request.

To:

- All customer-facing staff to receive training before their first shift when the premises is open to the public and refresher training every six months on their responsibilities with regard to licensing legislation, underage and proxy sales. Training will also cover Challenge 25, personal safety, conflict management, recognising signs of drunkenness, how to refuse service, the premises duty of care, safe evacuation of the premises, company policies and reporting procedures, action to be taken in the event of an emergency, including the preservation of a crime scene and reporting an incident to the emergency services, and the conditions in force under this licence.
- This training must be documented and produced to an officer of a responsible authority upon request.

- That the licensee become part of the local link radio which is a secure link for shops to communicate with each other
- Wine to be sold in bottles 75 centre litres
- Alcohol to be sold after midday.

The Licensing Sub-Committee heard from Lee Jenks for Trading Standards, that on the 23 September 2022, Trading Standards in response to a complaint, visited Sunny's Superstore. During the visit the following illicit items were discovered believed to be for sale or supply to the general public and were subsequently seized for further investigation:

- 41 packets (3 different brands) of duty-free cigarettes behind the counter, (non UK DUTY paid).
- A large number of illicit nicotine vaping products were found bearing incorrect warnings and far exceeding the permitted UK tank size to hold nicotine liquid.
- 146 pouches of banned oral tobacco were found behind the counter and in a rear storeroom.
- Several tubs of shisha tobacco without correct markings. These products are in breach of the Tobacco and Related Product Regulations 2016 and are also suspected of being smuggled into the UK.
- In addition, 3 bottles of Glenfiddich whisky were discovered for sale in Sunny's bearing supermarket anti-theft tags.

There was a suspicion that the whisky was stolen. Which if correct was a criminal offence under the Consumer Protection from Unfair Trading Regulations 2008.

The application for review and the discovery of the above products illustrated that no regard had been considered for the Licensing Objectives.

The Licensing Sub-Committee heard from Nilusha Sahni for Public Health at Wolverhampton Council, that the premises in question was located within one of the most concerning geographical areas to Public Health, with an overall risk rating of HIGH. They were of the view that the sale of single units exacerbated alcohol dependency and social problems, and they therefore opposed such sales.

They supported the Application for review, and they believed that the actions at the Premises undermined the Licensing Objectives, and that efforts by the West Midlands Police had not improved the licensee's regard for public safety.

The Licensing Sub-Committee heard from the Premises Licence Holder, Mr Narinderjit Mahli that he disputed the evidence, he did not know the challenge 25 scheme, and that he was selling single cans. He stated he had tried to comply with his requirements as Licensee and produced the refusals book which was viewed by the Committee and the Responsible Authorities.

He was happy with the conditions proposed by the Licensing Authority with additional conditions put forward at the hearing.

The options open to the Sub-Committee were as follows:-

- Modify the conditions
- Exclude a licensable activity from the licence
- Remove the designated premises supervisor
- Suspend the licence for up to 3 months
- Revoke the licence

The Sub-Committee considered the evidence presented by the Responsible Authorities from 27 April 2022 when Mr Narinderjit Mahli became Licensee and had not taken into account evidence presented relating to the previous Licensee.

The Sub-Committee had 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 were concerned that the Licensing Objectives were clearly being breached on a regular basis. The Licensee Mr Mahli gave an inconsistent account when compared to his account given to Police. The Sub-Committee were particularly concerned with the items seized on 23 September from his premises by Trading Standards for which he gave no credible account.

The Sub-Committee had on the balance of probabilities, found that in order to promote the Licensing objectives the premises licence of Sunny's Superstore, 14 Cleveland Street, Wolverhampton, WV1 3HH should be **revoked** in accordance with s52 LA 2003.

This action was considered an appropriate and proportionate action for the promotion of the four Licensing Objectives. The measures proposed by the Premises Licence Holder were deemed insufficient to promote the licensing objectives in light of repeated sales at the Premises.

It was deemed inappropriate to modify conditions and suspend the licence as the repeated sales to intoxicated persons demonstrated that the Premises Licence Holder appeared not able to comply with conditions of the licence and the Sub-Committee did not believe that conditions or suspension for a limited period would assist in mending the behaviour already evidenced.

The premises licence holder who was also the DPS had failed to uphold the Licensing Objective of the Prevention of Crime and Disorder, nor had consideration been given to protecting the public from illegal tobacco and nicotine products. The Sub-Committee noted that this occurred over a period of time since Mr Mahli became the licensee and that West Midlands Police, recommended the revocation of the Premises Licence.

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 may be made to the Magistrates' Court against the decision, by the applicant, the holder of the premises licence, or any other person who made a relevant representation, within 21 days from the date of receipt of written notice of the decision.