

# Statutory Licensing Sub-Committee

Minutes - 25 April 2023

## Attendance

### Members of the Statutory Licensing Sub-Committee

Cllr Phil Page (Chair)

Cllr Gillian Wildman

Cllr Rashpal Kaur

### Applicant for Review

Dianne Slack

Gurdip Gill

Trading Standards

Trading Standards (observing)

### Premises Licence Holder

Mr Gurdip Singh

Poonam Nehra

Interpreter

### Responsible Authorities

Amitabh Singh

Kayley Nixon

Sgt Gemma Turner

Michelle Marie-Smith

Ryan Hollings

Licensing Authority

West Midlands Police

West Midlands Police (observing)

Public Health

Public Health (observing)

### Employees

Elizabeth Gregg

David Abel

Bankole Thomas

Donna Cope

Senior Licensing & Compliance Officer

Solicitor

Solicitor (observing)

Democratic Services Officer

*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 3 Jyot Off Licence, 287 Willenhall Road, WV1 2HY**

An application for a review of a Premises Licence in respect of 3 Jyot Off Licence, 287 Willenhall Road, WV1 2HY had been received from Trading Standards.

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. Dianne Slack, Tobacco Control Officer for Trading Standards (applicant), confirmed that the summary was accurate.

The Chair asked Mr Gurdip Singh, Premises Licence Holder, if he understood the application summary that had been presented, and via an interpreter, Poonam Nehra, it was established that Mr Singh could not understand anything that was being said.

The Chair then asked, via the interpreter, if Mr Singh knew why he was before the Sub-Committee today. Mr Singh confirmed that he did.

Dave Abel, Solicitor, suggested that Elizabeth Gregg read out the summary again and the interpreter could relay the details back to Mr Singh. It was agreed that the hearing would proceed in this manner to ensure Mr Singh could understand what was being said.

Elizabeth Gregg, Senior Licensing and Compliance Officer, provided an outline of the application again. Mr Singh, Premises Licence Holder, confirmed that he understood the summary.

The Chair invited Trading Standards to present their application. Dianne Slack, Tobacco Control Officer, did so as per Appendix 3 of the report.

The Chair afforded all parties present the opportunity to question the Applicant in relation to her submission. Dianne Slack, Tobacco Control Officer, provided responses to questions asked.

The Chair invited the Premises Licence Holder to make representations. Mr Singh did so via the interpreter. He stated the following:

1. He had now installed a new CCTV system at the premises.
2. His wife had sold the cans of lager to the 15 year old girl.
3. The girl's father deleted the CCTV of the incident after Mr Singh paid him £45.00 whilst Mr Singh was present. He had done this to help the father pay the girls medical expenses and to prevent him from making a complaint.
4. He knew nothing about the sale of cans of Gin and Tonic to a sixteen year old child.
5. He had made mistakes but would not repeat them.

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

1. The allegations made against the premises were correct.
2. He needed more training.
3. He gave the girl's father money to help with her medical costs and to delete the CCTV footage.
4. He owned another shop and was the DPS for both premises.
5. He completed his DPS training in 2011.
6. His wife also worked in the shop and he had given her training.
7. The sale of alcohol had been refused many times but there was no refusal log.
8. Following the first offence he had spoken to his wife and son, telling them not to do it again.
9. The second offence had been carried out by his 16/17 year old nephew who had been visiting at the time.
10. Mr Singh understood the seriousness of the matter and took responsibility.

The Chair invited the Licensing Authority to make representations. Amitabh Singh, Section Leader Licensing, did so as per Appendix 6 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 the Premises Licence should therefore be suspended or revoked.

The Chair invited all parties present to question the Licensing Authority in relation to its submission. No questions were asked.

The Chair invited West Midlands Police to make representations. Kayley Nixon, Licensing Officer, did so as per Appendix 4 of the report. She stated that West Midlands Police supported the application for review and believed that the actions at the premises had undermined the Licensing Objectives. She stated that the Premises Licence should therefore be revoked.

The Chair invited all parties present to question West Midlands Police in relation to its submission. No questions were asked.

The Chair invited Public Health to make representations. Michelle Smith, Principal Public Health Specialist, did so as per Appendix 5 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 the Premises Licence should therefore be revoked.

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.

No final statements were made.

David Abel, Solicitor, provided legal guidance to Members and reminded them of their available options.

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

The Sub-Committee adjourned at 12.20 hours.

The Hearing reconvened at 13.12 hours.

All interested parties, with the exception of West Midlands Police, returned to the meeting.

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

Resolved:

An application had been made by The City of Wolverhampton Trading Standards Department as a Responsible Authority on 3<sup>rd</sup> March 2023 for a review of the Premises Licence in respect of 3 Jyot Off Licence (also known as AK Convenience Store and Off Licence) 287 Willenhall Road, Wolverhampton WV1 2HY, on the grounds that actions at the premises had undermined the Licensing Objectives. Representations had been received from the Licensing Authority, West Midlands Police and from Public Health as Responsible Authorities.

At the hearing on 25 April 2023 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. They considered all the evidence presented and found the following facts:

The Licensing Sub-Committee heard from Elizabeth Gregg (Licensing Services), Gurdip Gill and Dianne Slack for Trading Standards (applicant for review) that:

On 2 December 2022, information was received by City of Wolverhampton Council Customer Services alleging that alcohol had been sold to a vulnerable child by a

shop located opposite Mayfield Medical Centre on Willenhall Road, Wolverhampton. Subsequent enquiries established that the shop concerned was 3 Jyot Off Licence, 287 Willenhall Road, Wolverhampton, WV1 2HY. The complaint was made by the father of the child who stated that his daughter had been sold 5 cans of strong lager called Black Storm at 7.5% ABV, by the shop the previous evening. The father stated that his daughter had later collapsed in the street the same night and had been found by a member of the public. An ambulance had been called and she was taken to hospital and it was believed that she had suffered a cardiac arrest. Further details were later received that his daughter was 15 years of age, had learning difficulties and resided in assisted accommodation.

Officers from the City of Wolverhampton Council Licensing Section and Trading Standards Service visited the premises on 6 December 2022 and attempted to view the shop's CCTV footage of the alleged sale to the child, but the footage could not be accessed at the time. Forensic analysis of the CCTV was subsequently carried out, but it was found that footage of the incident was not available to view and that only footage after the alleged sale was available to be viewed. During the visit the shop owner, Gurdip Singh, told officers that his wife had made the sale. Information was also received that alluded to the shop owner paying £50 to the child's father on the basis that the incident would not be reported, but this had not been verified.

On 23 February 2023, 2 x 250ml cans of Gordons Gin & Tonic at 5%ABV were sold to a 16 year old authorised volunteer on behalf of the City of Wolverhampton Council. The sale was witnessed by a Trading Standards Officer. It was a criminal offence under section 146(1) of the Licensing Act 2003 to sell alcohol to a person under the age of 18. No attempt was made to ask for age or ask for identification. It was a mandatory condition under The Licensing Act 2003 that a business operates an Age Verification Policy. This volunteer was refused age restricted products at another shop that day. The sale was made by a young male sales assistant who was behind the counter.

On 24 February 2023 officers from City of Wolverhampton Council Trading Standards and Licensing visited 3 Jyot Off Licence to conduct an inspection. The shop's CCTV, which showed footage of the sale to the underage volunteer on 23 February 2023, was viewed and an advisory letter was left with the shop owner. The following contraventions were also noted during the inspection: There was no refusals book available to inspect. There was no Licence Summary on display, contrary to Section 57(4) Licensing Act 2003. However, it should be noted that it was available for inspection. There was no statutory tobacco notice on display, contrary to Section 4 Children and Young Persons (Protection from Tobacco) Act 1991. The cigarette gantry was open leaving tobacco products on display, contrary to the Tobacco Advertising and Promotion (Display)(England) Regulations 2010. It was suspected that staff training about age restricted sales legislation was not being provided in relation to age verification and challenging customers attempting to purchase alcohol. The shop owner stated that CCTV recordings were only being retained for 15 days and the timer on the CCTV was found to be out by 75 minutes. It was established that details had not been notified to the Licensing Authority in relation to a change of name of the business and change of address of the premises licence holder and it was suspected that the shop owner's 16 year old son was making sales of alcohol. Non-compliant single use vape products (eleven IVG Max

Bar 3000 e-cigarettes) were found behind the counter. The stated capacity was 800 puffs and 40mg nicotine dose which exceeds the legally permitted levels, namely 600 puffs and maximum 20mg nicotine dose. The shop owner was agreeable to the products being taken for destruction by Trading Standards. Accordingly, they were seized by a Trading Standards Officer. The products had subsequently been verified as non-compliant by a Trading Standards Officer checking the Independent British Trade Vape Association's database of non-compliant products. A trader's notice was left.

Gurdip Singh trading as 3 Jyot Off Licence also known as AK Convenience Store and Off Licence, had engaged in activities which had breached the Licensing Objectives namely 'the prevention of crime and disorder' and 'the protection of children from harm'.

The Home Office published guidance under section 182 of the Licensing Act 2003, with the following paragraphs being particularly relevant:

2.22 The protection of children from harm includes the protection of children from moral, psychological and physical harm. This includes not only protecting children from the harms associated directly with alcohol consumption but also wider harms such as exposure to strong language and sexual expletives.

2.23 The Government believes that it is completely unacceptable to sell alcohol to children.

11.27 There is certain criminal activity that may arise in connection with licensed premises which should be treated particularly seriously. This includes the use of the licensed premises for the illegal purchase and consumption of alcohol by minors which impacts on the health, educational attainment, employment prospects and propensity for crime of young people.

The guidance goes on to say that:

11.28 .....Where reviews arise and the licensing authority determines that the crime prevention objective is being undermined through the premises being used to further crimes, it is expected that suspension or revocation of the licence - even in the first instance - should be seriously considered.

With regards to vapes, Part 6 of the Tobacco and Related Products Regulations 2016:

- sets minimum standards for the safety and quality of all e-cigarettes and refill containers (otherwise known as e-liquids)
- ensures that information is provided to consumers so they can make informed choices
- promotes an environment that protects children from starting to use these products

These Regulations were not complied with.

Trading Standards 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 Licensing Sub-Committee heard from Amitabh Sigh 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 that the Premises Licence should be suspended or revoked.

The Licensing Sub-Committee heard from Kayley Nixon for West Midlands Police that they supported the Application for Review and believed that the actions at the Premises undermined the Licensing Objectives of the Prevention of Crime and Disorder and the Protection of Children from Harm. West Midlands Police supported the representation made by Trading Standards as it was unlawful to sell alcohol to children and recommended revocation of the Licence.

The Licensing Sub-Committee heard from Michelle Smith for Public Health at Wolverhampton Council that they supported the Application for Review and believed that the actions at the Premises undermined the Licensing Objectives. Public Health recommended that the Licence be revoked given that a child had been hospitalised, staff were not trained, and Mr Singh's actions completely undermined the Licensing Objectives.

The Licensing Sub-Committee heard from the Premises Licence Holder Mr Gurdip Singh, that he had now installed a new CCTV System at the Premises and that his wife had sold the cans of lager to the 15 year old girl. The girl's father had deleted the CCTV of the incident after Mr Singh paid him £45.00 whilst Mr Singh was present. He allowed this to help the father pay the girls medical expenses and to prevent him from making a complaint. Mr Singh knew nothing about the sale of cans of Gin and Tonic to a sixteen year old child. He had made mistakes but would not repeat them, and he apologised to the Committee for his mistakes.

The options open to the Sub-Committee today 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 had considered the evidence presented and 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 had on the balance of probabilities, found that in order to promote the Licensing Objectives the Premises Licence of Joyt Off-licence should be Revoked.

The Licensing Sub-Committee felt that they had no option but to revoke the licence given the serious harm caused to a vulnerable fifteen year old girl by the underage sale of alcohol, the sale of which was repeated soon afterwards to a child in a Test Purchase operation. Mr Singh had deliberately allowed the deletion of evidence from the CCTV and tried to bribe the father of the hospitalised child not to make a

complaint. The Sub-Committee felt that a period of suspension or the imposition of conditions would be a redundant approach given the seriousness of the incidents and the admitted criminality of Mr Singh's actions.

The actions of the Sub-Committee were considered appropriate and proportionate actions for the promotion of the four Licensing Objectives and in particular the Prevention of Crime and the Protection of Children from harm.

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 this decision.