

Statutory Licensing Sub-Committee

Minutes - 28 April 2023

Attendance

Members of the Statutory Licensing Sub-Committee

Cllr Phil Page (Chair)

Cllr Rashpal Kaur

Cllr Rita Potter

Applicant for Review

Stefan Polatajko

Trading Standards

Premises Licence Holder

Mr Bhupinder Singh

Mr Patrick Burke

Agent

Responsible Authorities

Amitabh Singh

Kayley Nixon

Michelle Marie-Smith

Licensing Authority

West Midlands Police

Public Health

Employees

Elizabeth Gregg

David Abel

Jacob Stokes

Senior Licensing & Compliance Officer

Solicitor

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 Lloyd Hill Convenience Store, 2 Lloyd Hill, Wolverhampton, WV4 5NE

An application for a review of a Premises Licence in respect of Lloyd Hill Convenience Store, 2 Lloyd Hill, Wolverhampton, WV4 5NE 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. Stefan Polatajko, Senior Officer - Trading Standards and the Applicant for Review, confirmed that the summary was accurate.

The Chair asked the Premises Licence Holder, Mr Bhupinder Singh, if he understood the application summary that had been presented. Mr Patrick Burke, Agent for the Premises Licence Holder, confirmed that his client understood the summary.

The Chair invited Trading Standards to present their application. The Senior Officer - Trading Standards did so, as per Appendix 3 of the report. He stated the following:

1. On 31 March 2022, an elected member made a complaint on behalf of a resident that alcohol had been sold to their 13-year-old daughter by Lloyds Convenience Store.
2. On 8 December 2022 and 30 January 2023, information was received from West Midlands Police alleging that vapes had been sold to schoolchildren during school hours.
3. On 23 February 2023, an underage volunteer for the Council purchased two cans of 5% ABV alcohol. The sale was witnessed by a Trading Standards Officer; no attempt was made to ask for ID or to check the customer's age despite the store operating a Challenge 25 policy. The same volunteer had been refused at another shop that same day.
4. The store had engaged in activities that breached the Prevention of Crime and Disorder and Protection of Children from Harm Licensing Objectives.

5. He had been mediating with the Agent for the Premises Licence Holder in this matter and invited the Licensing Sub-Committee to consider modifying the licence by adding several conditions.

In the meantime, he recommended the Licensing Sub-Committee suspend the Premises Licence until all staff were trained by a registered trainer.

The Chair afforded all parties present the opportunity to question Trading Standards in relation to its submission. The Senior Officer - Trading Standards responded to questions asked.

The Chair invited the Premises Licence Holder to make representations. The Agent for the Premises Licence Holder did so. He stated the following:

1. He had been in conversation with Trading Standards and the Premises Licence Holder had agreed to the proposed conditions.
2. The Premises Licence Holder fully understood the issues that had been raised and accepted that mistakes had been made.
3. The staff training that had been carried out had been inadequate and several licensed training courses had been suggested to the Premises Licence Holder. The Agent for the Premises Licence Holder had also suggested to his client that the Designated Premises Supervisor update his certificate annually.
4. The Premises Licence Holder was happy to have an electronic till with the relevant till prompts installed.
5. There was no record in the sales record of vodka being sold in relation to the incident reported on 31 March 2022.
6. The Premises Licence Holder had become complacent.

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

1. He had provided the Premises Licence Holder with materials to help with staff training on age-related sales and expressed the importance of Challenge-25 to his client.
2. Training courses had been booked in for staff.
3. Staff will receive Personal Licence training before being allowed to sell age-related products and the Premises Licence Holder was satisfied to have a condition added to the licence that any new starter be fully trained before being allowed to serve these products.
4. The Premises Licence Holder does not own any other licensed premises.
5. The Premises Licence Holder was happy to take up a one-year membership to the Independent British Vape Trade Association.

The Chair invited the Licensing Authority to make representations. Amitabh Singh, Section Leader - Licensing, did so as per Appendix 4 of the report. He stated the following:

1. The Licensing Authority supported the application for review.
2. The evidence presented demonstrated failure to uphold the Licensing Objectives of the Prevention of Crime and Disorder and the Protection of Children from Harm and a lack of understanding of the necessary requirements to uphold the mandatory licensing conditions and Licensing Objectives.

3. The Licensing Authority supported the recommendations put forward by Trading Standards that the licence be suspended.

The Chair afforded all parties present the opportunity to question the Licensing Authority in relation to its submission. There were no questions asked.

The Chair invited West Midlands Police to make representations. Kayley Nixon did so as per Appendix 6 of the report. She stated the following:

1. West Midlands Police supported the application for review.
2. Actions taken at the premises had undermined the Licensing Objectives.
3. The Premises Licence Holder cannot afford to become complacent, and it is expected that any premises licensed to sell alcohol and vapes should always act responsibly.
4. A lack of training had taken place at the premises.
5. West Midlands Police supported suspension and a modification to the licence in line with the proposed conditions outlined by Trading Standards.

The Chair afforded all parties present the opportunity to question West Midlands Police in relation to its submission. Ms Nixon responded to questions asked.

The Chair invited Public Health to make representations. Michelle Marie-Smith, Principal Public Health Specialist, did so as per Appendix 5 of the report. She stated the following:

1. Public Health supported the application for review and the evidence presented was highly concerning.
2. Repeated non-compliance with the Licensing Conditions showed that the Premises Licence Holder had acted irresponsibly and had failed to uphold the Licensing Objectives.
3. Evidence showed that drinking at a young age could damage a child's health. Wolverhampton was a regional outlier for alcohol-related harm and had one of the highest rates of alcohol-related mortality and these issues were exacerbated by irresponsible Licence Holders.
4. Public Health believed that any Licence Holder who failed to uphold the four Licensing Objectives should be subjected to full revocation of their licence.

The Chair afforded all parties present the opportunity to question Public Health in relation to its submission. The Principal Public Health Specialist responded to questions asked.

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

The Agent for the Premises Licence Holder made a final statement.

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

Mr Bhupinder Singh, Mr Patrick Burke, Stefan Polatajko, Kayley Nixon, Amitabh Singh, Michelle Marie-Smith and Elizabeth Gregg withdrew from the meeting to enable the Sub-Committee to determine the matter.

The Sub-Committee adjourned at 11.21 hours.

The Hearing reconvened at 12.18 hours.

Mr Bhupinder Singh, Mr Patrick Burke, Stefan Polatajko, Amitabh Singh, 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 Senior Solicitor.

Resolved:

An application was made by The City of Wolverhampton Trading Standards Department as a Responsible Authority on 6 March 2023 for a review of the Premises Licence in respect of Lloyds Convenience Store (also known as Spar), 2 Lloyd Hill, Stourbridge Road, Wolverhampton WV4 5NE, on the grounds that actions at the premises undermined the Licensing Objectives.

Representations were received from the Licensing Authority, West Midlands Police and from Public Health as Responsible Authorities. The Committee also heard from the Premises Licence Holder Mr Bhupinder Singh and his Representative Mr Burke, on behalf of CMK Superstore Ltd.

At the hearing on the 28 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 Stefan Polatajko for Trading Standards, the Applicant for Review, that:

On 8 December 2022 information was received from West Midlands Police alleging vapes were being sold by Lloyd Convenience Store to school children in school uniform during school hours.

On 30 January 2023 further information was received from West Midlands Police again alleging that vapes were being sold by Lloyd Convenience Store to school children in school uniform during school hours.

On 23 February 2023 a volunteer under the age of 18 for the City of Wolverhampton Council purchased two 250ml cans of Gordons Gin & Tonic 5% ABV from Lloyds Convenience Store. The sale was witnessed by a Trading Standards Officer. No attempt was made to ask the young person their age or ask for identification.

It is a mandatory condition under the Licensing Act 2003 that a business operates an Age Verification Policy. The purchaser was not asked for identification to prove their age, despite Lloyds Convenience Store operating a Challenge 25 policy at the premises.

The 16-year-old volunteer had been asked for and refused age restricted products at another shop that day. Lloyds Hill Convenience Store, also known as Spar, has engaged in activities which have breached the Licensing Objectives namely 'the Prevention of Crime and Disorder' and 'the Protection of Children from Harm'.

Trading Standards believes that the Licensing Objectives of the Prevention of Crime and Disorder and the Protection of Children from Harm have been undermined by the way in which the premises operates and therefore the Premises Licence should have the licence conditions modified and the licence suspended for a short time in order to implement the proposed conditions which comprise of:

- Delivering adequate and appropriate staff training.
- Adopting a 'No ID No Sale' policy alongside the existing 'Challenge 25' age verification policy.
- Only photographic ID to be accepted as proof of identification.
- The existing Refusals book to be monitored by the Licensee or a senior member of staff and signed off accordingly that it has been done.
- Installing till prompts.
- That such conditions include a requirement for the relevant records to be maintained and made available for inspection when requested by an Officer of a Responsible Authority.
- In addition, in order for Lloyds Convenience Store to be able to fully implement and become comprehensively acquainted with the new conditions, Trading Standards recommend that the Sub-Committee suspend their licence for such a period until all staff are trained by an accredited trainer.

The Licensing Sub-Committee heard from Amitabh Singh for the Licensing Authority that they support the application for review and believe that the actions at the premises undermine the Licensing Objectives and therefore that the Premises Licence should be modified and suspended. The Licensing Authority support the review brought by Trading Standards.

The Licensing Sub-Committee heard from Kayley Nixon for West Midlands Police that they support the application for review and believe that the actions at the premises undermine the Licensing Objectives of the Prevention of Crime and Disorder and the Protection of Children from Harm and therefore that the Premises Licence should be modified and suspended. West Midlands Police provided an Intelligence Report that Lloyds Convenience Store is selling vapes to children in school uniform during school hours. It is illegal to sell vapes to anyone who is under 18 years of age.

The Licensing Sub-Committee heard from Michelle Smith for Public Health at Wolverhampton Council that they support the application for review and believe that the actions at the premises undermine the Licensing Objectives.

The Licensing Sub-Committee heard from the Premises Licence Holder Mr Bhupinder Singh and his Representative, Mr Patrick Burke, that Mr Singh has accepted the conditions proposed by Trading Standards and by the Committee today. His client had put training in place but this was inadequate and he had become complacent. Staff training has been organised for next Wednesday by an external provider. His client now understands the issues and their consequences. An employee had made the sale to the test purchaser. He denied the sale of vodka to a child. He will take up a one year membership of the Independent British Vape Trade Association which will provide him with guidance and training on the sale of vapes.

The options open to the Sub-Committee today are 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 have 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 have, on the balance of probabilities, found that in order to promote the Licensing Objectives the Premises Licence of Lloyd Hill Convenience Store should be modified as follows:

1. All persons selling alcohol must be properly trained by an accredited Licensing Trainer before they are allowed to sell any alcohol to the public. Records of training must be kept by the Designated Premises Supervisor or Premises Licence Holder. Persons selling alcohol must be authorised in writing by the Designated Premises Supervisor following successful completion of training. The records must be kept on the premises during opening hours and must be made available on request to an Officer of a Responsible Authority or West Midlands Police.
2. Refresher training must be carried out Quarterly and records maintained. The records must be kept on the premises during opening hours and must be made available on request to an Officer of a Responsible Authority or West Midlands Police.
3. A 'Challenge 25' policy and 'No ID No Sale' policy, which is supported with signage at all entrances and in the serving areas, must be implemented.
4. Only documents which include a photograph of the purchaser should be used to prove that person's age, e.g. passport, new style driving licence, 'PASS' approved age card e.g. Validate, Card or Citizens card.
5. A 'Refusals Log' must be maintained, which documents the date and time a refusal of sale is made, the reason for the refusal and the member of staff refusing the sale. The Premises Licence Holder or the Designated Premises Supervisor must monitor the Log on a weekly basis and sign it to show it has been done. The Log must be kept on the premises during opening hours and must be made available on request to an Officer of a Responsible Authority or West Midlands Police.
6. A notice must be secured to the till at eye level to remind staff that they must ask for ID if a customer looks under 25. An electronic till prompt must be used preventing staff from authorising a sale of alcohol until the age of the purchaser has been entered.
7. CCTV must be installed, and recordings kept at the Licensed Premises for a period of 30 days, whilst maintaining adequate picture quality to identify shoppers. Recordings must be made available on request to an Officer of a Responsible Authority or West Midlands Police.

8. Signage will be displayed on the door of the premises and prominently within the shop clearly stating that sales of vapes and e-cigarettes are banned to under 18's.

9. The premises will immediately obtain a one-year membership of the Independent British Vape Trade Association which will allow for the provision of an agreed guidance plan to assist with the premises understanding and fulfilling its responsibilities and legal regulations in relation to the sale of vapes and e-cigarettes.

10. Any new staff members must be fully trained before being allowed to sell alcohol or age-related products.

The Licensing Sub-Committee felt that it was necessary to impose a period of suspension on the premises of 3 Months or until all staff training has been completed and accepted by the Licensing Authority in order to satisfy the Licensing Objectives of the Protection of Children from Harm and the Prevention of Crime and Disorder and to allow the proposed conditions to be implemented. The Sub-Committee have taken these actions to ensure that complacency in relation to the sale of alcohol and age restricted products does not result in harm to the public.

These actions are considered appropriate and proportionate actions for the promotion of the four Licensing Objectives. Written notice of the determination will 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.