

Statutory Licensing Sub-Committee

Minutes - 29 January 2024

Attendance

Members of the Statutory Licensing Sub-Committee

Councillor Zee Russell

Councillor Rashpal Kaur

Councillor Gillian Wildman

Applicant for Review – Trading Standards

Stefan Polatajko

Senior Trading Standards Officer

Premises Licence Holder and Applicant to Transfer / Vary DPS

Andrea Forrest

Solicitor

Sahib Singh Chawla

Premises Licence Holder's Son

Previous Premises Licence Holder

Sukhwinder Singh

Responsible Authorities

Amitabh Singh

Licensing Authority

Kayley Nixon

West Midlands Police

Ryan Hollings

Public Health

Employees

Debra Craner

Section Leader

Ronald Sempebwa

Solicitor

Donna Cope

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 made.

3 Licensing Act 2003 - Applications in respect of Family Shopper, 289 Wood End Road, Wednesfield, Wolverhampton, WV11 1YQ

Applications in respect of Family Shopper, 289 Wood End Road, Wednesfield, Wolverhampton, WV11 1YQ had been received by the City of Wolverhampton Council.

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

The Sub-Committee's statutory duty was to consider the applications 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.

Andrea Forrest, Solicitor for the Premises Licence Holder, Mr Manmeet Chawla, requested a short adjournment so she could speak with the previous Premises Licence Holder, who was in attendance, privately.

The request was granted and all parties, with the exception of the Solicitor and the Democratic Services Officer, withdrew from the meeting.

The Hearing adjourned at 10.42 hours.

The Hearing reconvened at 10.47 hours.

All parties returned to the meeting.

Debra Craner, Section Leader Licensing, provided an outline of the report which had been circulated to all parties in advance of the meeting.

Stefan Polatajko, Senior Officer for Trading Standards, and Andrea Forrest, Solicitor for the Premises Licence Holder, confirmed that the summary was accurate.

Application to Transfer the Premises Licence

The Chair invited Andrea Forrest, Solicitor for the Premises Licence Holder, to present the application to Transfer the premises licence.

Ms Forrest did so as per Appendix 3 of the report and supplementary evidence bundle. She stated the following:

- She had been instructed by her client in December but had been extremely busy.
- Her client did not know that the vapes were illegal and had surrendered them immediately. They were on display and not hidden.
- It was confusing for retailers to know what vapes were legal and her client had made an honest mistake.
- The vapes were purchased from a cash and carry, and private seller.
- The illicit cigarettes found at the premises belonged to someone else and there was written evidence to support that.
- Her client had a gold standard for cigarettes.
- There must be exceptional circumstances to object to a transfer application.
- The licence was for the sale of alcohol and there were no alcohol issues at the premises.
- If the transfer application was granted, the DPS would be varied to a more suitable person as her client was ill.
- Due diligence was now in place at the premises.

The Chair afforded all relevant parties the opportunity to question the Applicant in relation to their submission. Andrea Forrest and Mr Sahib Singh Chawla, the Premises Licence Holder's son, responded to questions asked.

They stated the following:

- Moving forward, vapes would not be bought from private sellers.
- The illicit cigarettes belonged to a member of staff.
- Her client would return to the premises when he was better and would undertake further training.
- An online application to transfer the licence over to her client had been made in June 2022 but had not been processed correctly.

The Chair invited West Midlands Police to make their representations. Kayley Nixon did so as per Appendix 4 of the report. She stated that West Midlands Police sought the Licensing Sub-Committee to make a decision on the matter.

The Chair afforded all relevant parties the opportunity to question West Midlands Police 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.

Application for a Review of the Premises Licence

Additional information had been submitted by Andrea Forrest, Solicitor for the Premises Licence Holder, on Sunday 28 January 2024. As there had been insufficient time for all parties to consider the late submission the Chair instructed that the Hearing be adjourned for a short time to allow for this.

All parties, with the exception of the Solicitor and Democratic Support Officer, withdrew from the meeting.

The Hearing adjourned at 11.28 hours.

The Hearing reconvened at 11.47 hours.

All parties were invited back to the meeting.

The Chair invited Trading Standards to present their application to Review the Premises Licence. Stefan Polatajko, Senior Officer for Trading Standards, did so as per Appendix 5 of the report. He requested that the licence be suspended for 3 months and for training to be undertaken by all staff.

The Chair afforded all parties present the opportunity to question the Applicant in relation to his submission. Stefan Polatajko, Senior Officer for Trading Standards, provided responses to questions asked.

The Chair invited the Premises Licence Holder to make representations. Ms Andrea Forrest, Solicitor for the Premises Licence Holder, did so as per the supplementary evidence bundle. She stated the following:

- Revocation of the licence was not proportionate and would not achieve anything.
- Staff training, robust policies and appropriate conditions would be implemented.
- She would assist with the staff training, and the proposed conditions would strengthen the licence.
- Her client had made a genuine mistake with the vapes, and the cigarettes belonged to someone else.
- Her client was a charitable man and the whole community supported him.
- There were no issues regarding alcohol at the premises.
- Trading Standards called the review after one incident and did not offer any support or mediation.
- Her client tried to transfer the licence into his name in June 2022, but it hadn't been processed correctly.
- It was confusing for retailers to know what vapes were legal and there was little to no training available.
- Her client took full responsibility for the mistakes and welcomed further training.
- Revocation and suspension were not proportionate.

The Chair afforded all parties present the opportunity to question the Premises Licence Holder in relation to their submission. Ms Andrea Forrest and Mr Sahib Singh Chawla, the Premises Licence Holder's son, responded to questions asked.

The Chair invited West Midlands Police to make representations. Kayley Nixon did so as per Appendix 6 of the report. She stated that West Midlands Police supported the review application and requested that enforceable conditions be added to the licence.

The Chair invited all parties present to question West Midlands Police in relation to its submission. Kayley Nixon responded to questions asked and confirmed that she was happy with the conditions proposed by the premises.

The Chair invited Public Health to make representations. Ryan Hollings, Senior Public Health Specialist, did so as per Appendix 7 of the report. He stated that Public Health fully supported the application for review and recommended that the licence either be suspended to allow for robust training and conditions, or revoked.

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

The Chair invited the Licensing Authority to make representations. Amitabh Singh, Licensing Section Leader, did so as per Appendix 8 of the report. He stated that the Licensing Authority fully supported the application for review and requested that the licence be suspended for 3 months whilst appropriate conditions, policies and further training were implemented.

The Chair invited all parties present to question the Licensing Authority in relation to its submission. Amitabh Singh responded to questions asked.

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

Ms Andrea Forrest made a final statement, highlighting that the police, who were the leading authority on crime and disorder, were happy with the proposed conditions.

All 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 Hearing adjourned at 12.48 hours.

The Hearing reconvened at 14.02 hours.

All parties returned to the meeting.

Application to Vary the Designated Premises Supervisor.

The Chair invited Andrea Forrest, Solicitor for the Premises Licence Holder, to present the application to Vary the Designated Premises Supervisor (DPS).

Ms Forrest did so as per Appendix 24 of the report and supplementary evidence bundle. She stated the following:

- There must be exceptional circumstances to object to a vary DPS application.
- The Police objection was based on the review application.
- There had been successful test purchases at the premises.
- The Police were happy with the proposed conditions.
- Everything was now in place to ensure the Licensing Objectives were upheld.
- The DPS would be fully refresher trained.
- It was difficult for retailers to find information on vapes and her client had made an honest mistake.
- Her client was a charitable man and the whole community supported him.

The Chair afforded all relevant parties the opportunity to question the Applicant in relation to their submission. Andrea Forrest responded to questions asked.

The Chair invited West Midlands Police to make their representations. Kayley Nixon did so as per Appendix 25 of the report. She stated that West Midlands Police sought the Licensing Sub-Committee to make a decision on the matter taking into account what had been said during the Review Application.

The Chair afforded all relevant parties the opportunity to question West Midlands Police in relation to its submission. Kayley Nixon responded to questions asked and confirmed that she now had more confidence in the applicant running the shop after everything she had heard during the hearing.

The Chair invited all parties present to make their final address. No final statements were made.

All 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 Hearing adjourned at 14.13 hours.

The Hearing reconvened at 16.10 hours.

All parties returned to the meeting.

The decision was summarised by the Solicitor and the full Decision Notice would be sent out to all parties within 5 working days.

Resolved:

Applications in respect of Family Shopper, 289 Wood End Road, Wednesfield, Wolverhampton, WV11 1YQ had been received by the City of Wolverhampton Council.

Relevant Representations were received from the Public Health Authority, West Midlands Police and Licensing Authority.

The Statutory Licensing Sub-Committee heard from the legal representative of the new Premises Licence Holder ('PLH') and Designated Premises Supervisor ('DPS'), Trading Standards, West Midlands Police, the Licensing Authority and Public Health.

The Statutory Licensing Sub-Committee considered the evidence presented and had regard to the applications, representations made, Guidance issued under section 182 of the Licensing Act 2003 and the Council's own licensing policy.

Very careful consideration had been given to the questions and answers in the hearing between the Applicant and West Midlands Police. Having considered these carefully the Statutory Licensing Sub-Committee took the view that the objections initially made by West Midlands Police fell away. Accordingly, in so far as the applications to Transfer the Premises Licence and Vary the DPS were concerned, no decision was required in light of the concessions made in the hearing.

The Statutory Licensing Sub-Committee then turned to the Review application to be considered on its own.

It noted the statutory framework and paragraph 11.21 of the Guidance which provides that *'licensing authorities should be alive to the possibility that the removal and replacement of the designated premises supervisor may be sufficient to remedy a problem where the cause of the identified problem directly relates to poor management decisions made by that individual'*.

The Statutory Licensing Sub-Committee had been concerned about the evidence that came out during the hearing with regards to Mr Manmeet Chawla's day to day role, responsibility, and management. As his legal representative had observed, he was not up to speed with the due diligence, knowledge and training and it was therefore not clear how he would be able to promote the licencing objectives in those circumstances.

The Statutory Licensing Sub-Committee therefore determined to:

1. Modify the conditions of the licence to include and upload onto the premises schedule the Proposed Conditions dated 26 January 2024 within the supplementary evidence bundle.
2. Remove the Designated Premises Supervisor.

An appeal may be made to Wolverhampton 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 the written notice of decision.