

Statutory Licensing Sub-Committee

Minutes - 31 July 2019

Attendance

Members of the Statutory Licensing Sub-Committee

Cllr Alan Bolshaw
Cllr Rita Potter
Cllr Obaida Ahmed

Premises Licence Holder

Haval Ali	Premises Licence Holder
Morteza Rasooli	Business Owner
Nisha Kainth	Solicitor

Review Applicant

Paul Dosanjh	Service Lead Trading Standards
Dianne Slack	Tobacco Control Officer

Responsible Authorities

Elaine Moreton	Section Leader Licensing
Parpinder Singh	Senior Public Health Specialist
Chukwuma Odenigbo	Trainee GP (observing)

Officers

Debra Craner	Licensing Section Leader
Lizzie Gregg	Senior Licensing & Compliance Officer
Sarah Hardwick	Senior Solicitor
Donna Cope	Democratic Services Officer

Item No. *Title*

1 Apologies for absence

Apologies were received from Sgt Steph Reynolds, West Midlands Police.

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 Minimart Retail Ltd, 443 Dudley Road, Wolverhampton, WV2 3AQ

An application for a Review of a Premises Licence in respect of Minimart Retail Ltd, 443 Dudley Road, Wolverhampton, WV2 3AQ, had been received from Trading Standards.

The Chair led round-table introductions and outlined the procedure to be followed. All parties confirmed they understood the procedure.

Elizabeth Gregg, Senior Licensing and Compliance Officer, provided an outline of the application. Paul Dosanjh, Service Lead, Trading Standards (applicant), confirmed that the summary was accurate.

The Chair invited Trading Standards to present their application. Paul Dosanjh, Service Lead, did so as per Appendix 3 of the report.

The Chair afforded all parties present the opportunity to question the applicant in relation to his submission. Paul Dosanjh, Service Lead, provided responses to questions asked.

The Chair invited Dianne Slack, Tobacco Control Officer for Trading Standards, to elaborate further on the visits made to the premises and the illegal findings.

Dianne Slack, Tobacco Control Officer, did so as per Appendix 3 of the report and Page 4 of the Supplementary Pack.

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

The Chair invited the Premises Licence Holder to make representations.

Ms Nisha Kainth, Solicitor representing Mr Haval Ali, Premises Licence Holder, stated the following:

1. Mr Haval Ali, the current PLH and DPS, had sold the business to Mr Rasooli following the first visit from Trading Standards.

2. Following the sale of the business to Mr Rasooli, a rogue employee had been responsible for the illegal activities and Mr Rasooli had been unaware of what was going on.
3. The Sub-Committee should consider a change of DPS from Mr Ali to Mr Rasooli.

The Chair afforded all parties present the opportunity to question Ms Kainth in relation to her submission.

Miss Kaith, Mr Ali and Mr Rasooli provided responses to questions asked.

The Chair invited the Licensing Authority to make representations. Mrs Elaine Moreton, Licensing Section Leader, did so as per Appendix 6 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 Public Health to make representations. Parpinder Singh, Senior Public Health Specialist, did so as per Appendix 5 of the report.

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

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

Parpinder Singh presented a summary on behalf of Public Health.

Elaine Moreton presented a summary on behalf of the Licensing Authority.

Ms Nisha Kainth presented a summary on behalf of the Premises Licence Holder.

Paul Dosanjh presented a summary on behalf of Trading Standards.

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:

Members of the Statutory Licensing Sub-Committee had 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:

They heard from the applicant, Trading Standards, that:

1. On 27 December 2018 and 31 January 2019, Trading Standards had received information that illicit cigarettes and tobacco were being sold from the premises.
2. On 15 February 2019 Trading Standards with West Midlands Police had visited the premises and discovered 14140 cigarette sticks and 3.350kg of hand rolling tobacco. In addition, West Midlands Police had discovered an A4 bag of cannabis in the loft area.
3. The seized goods included a large number of cigarettes known as foreign cheap whites, which were foreign brands brought into the UK illegally. Officers had also discovered English branded tobacco products that were not in the standardised packaging and did not display the pictorial and written health and safety warnings.
4. To knowingly keep or allow to be kept on relevant premises, goods such as cigarettes, which had been imported without payment of duty or which had otherwise been unlawfully imported was a criminal offence under section 144(1) and (3) of the LA 2003.
5. Guidance under section 182 of LA 2003 at paragraph 11.27 suggested that sale and distribution of controlled drugs together with the sale of counterfeit/illicit tobacco, where premises were used to further crime, revocation should be considered even in the first instance.
6. On 3 July 2019 an underage sale was made of alcohol and cigarettes. The cigarettes were illegal imports that did not bear the UK duty mark.
7. On 8 July 2019 following a visit, Trading Standards with West Midlands Police discovered further illegal cigarettes on the premises.
8. JTL had confirmed that on 13 March 2019, during an official operation, they had purchased a pouch of counterfeit tobacco.
9. Mr Ali claimed to have sold on the business.
10. The Trading Standards operation had been intelligence led.
11. A licence was not required to sell tobacco, but a licence was required for the sale of alcohol which was a responsible activity. The concern of Trading Standards was that the sale of illicit and counterfeit cigarettes and tobacco was a crime which was not victimless. It contributes to the shadow economy, drives down the cost of tobacco which counteracts the government attempt to use price as a disincentive in relation to smoking and the action undermined Public Health.
12. The Prevention of Crime and Disorder, Public Safety and Protection of Children from Harm licensing objectives had been undermined.
13. This was serious criminal activity and therefore the applicant requested revocation of the licence.

They heard from Mr Ali, Mr Rasooli and their Solicitor that:

1. Mr Ali, the current PLH and DPS, had sold the business to Mr Rasooli.
2. Mr Rasooli had not been aware of any of the illegal activity at the premises, even though some of the activity had occurred since he has owned the business.
3. Mr Rasooli did not hold a Personal Licence.
4. Mr Ali remained the PLH and DPS, ultimately responsible under the Licensing Act, as there had been no transfer of any licence.

5. Neither Mr Ali or Mr Rasooli had any real understanding or appreciation for responsibilities under the Licensing Act.
6. Mr Ali confirmed during the hearing that he did not know the premises licence made him responsible for everything as he had sold the business on.
7. Mr Ali and Mr Rasooli did not know the four Licensing Objectives under the Licensing Act 2003.

They considered evidence from West Midlands Police that:

1. The Police Authority supported the application of Trading Standards.
2. There was evidence of a number of offences being committed at the premises which related to possession of illegal drugs, illegal cigarettes and tobacco.
3. The Licensing Objective of the Prevention of Crime and Disorder had been seriously undermined.
4. This was not a victimless crime and revocation of the Premises Licence was appropriate.

They heard from Mrs Moreton, Licensing Authority as responsible authority that:

1. The Authority supported the application of Trading Standards.
2. There had been criminal activity on the premises.
3. Licensing Objectives were being undermined.
4. Mr Ali remained responsible for the licensable activities at the premises.
5. Revocation of the Premises Licence was appropriate.

They heard from Public Health that:

1. They supported the application of Trading Standards.
2. There was concern about criminal activity at the premises.
3. The criminal activity did not promote the Licensing Objectives.
4. The business model at the premises had not changed.
5. The actions of the premises encouraged the sale of alcohol to children.
6. Public Health were not reassured that the premises were responsible.
7. Revocation could be considered on a first occasion.

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 provides premises that had been used for the criminal activity of the sale or storage of smuggled tobacco and sale and distribution of controlled drugs should be treated particularly seriously, and where reviews arose and it was determined that the Prevention of Crime and Disorder Licensing Objective were 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.

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 and Protection of Children from Harm Licensing Objectives.

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 Minimart Ltd should be revoked in accordance with Section 52 of the Licensing Act 2003.

This action was considered appropriate and proportionate for the promotion of the Prevention of 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 had made relevant representations.

An appeal may 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.