

CITY OF
WOLVERHAMPTON
COUNCIL

Statutory Licensing Sub-Committee

Minutes - 17 December 2019

Attendance

Members of the Statutory Licensing Sub-Committee

Cllr Alan Bolshaw
Cllr Rita Potter
Cllr Keith Inston

Premises Licence Holder

Mohammed Sokhanvar Mahani
Duncan Craig
Zeya Karimi

Premises Licence Holder
Barrister
Interpreter

Review Applicant

Dianne Slack

Trading Standards

Responsible Authorities

Elaine Moreton
Greg Bickerdike
Aimee Taylor
Michelle Smith

Licensing Authority
Licensing Authority (observing)
West Midlands Police
Public Health

Officers

Lizzie Gregg
Richard Phillips
Donna Cope
George Burrell

Senior Licensing & Compliance Officer
Solicitor
Democratic Services Officer
Apprentice Licensing & Compliance 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 Super Mahan, 31 Thornley Street, Wolverhampton, WV1 1JP

An application for a Review of a Premises Licence in respect of Super Mahan, 31 Thornley Street, Wolverhampton, WV1 1JP, 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. Dianne Slack, Tobacco Control Officer for Trading Standards (applicant), confirmed that the summary was accurate.

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 Duncan Craig, Barrister representing the Premises Licence Holder, made representations. He stated that his client, Mr Mohammed Sokhanvar Mahani, had been the Premises Licence Holder for a long time and accepted that there had been shortcomings on his part. Mr Craig asked the Committee to consider a stepped approach to deal with the matter as an alternative to revocation of the licence. He suggested a suspension for at least two months allowing time for proper systems and training to be put in place.

The Chair afforded all parties present the opportunity to question Mr Craig in relation to his submission.

Mr Craig and Mr Zeya Karimi, interpreter for Mr Mahani, provided responses to questions asked.

The Chair invited West Midlands Police to make representations. Aimee Taylor, West Midlands Police, did so as per Appendix 4 of the report.

The Chair invited all parties present to question West Midlands in relation to its submission. Aimee Taylor, West Midlands Police, 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 5 of the report.

The Chair invited all parties present to question the Licensing Authority in relation to its submission. Elaine Moreton, Licensing Section Leader, provided responses to questions asked.

The Sub-Committee adjourned at 11.45 hours.

The Hearing reconvened at 11.55 hours.

The Chair invited Public Health to make representations. Michelle Smith, Principal Public Health Specialist, did so as per Appendix 6 of the report.

The Chair invited all parties present to question Public Health in relation to its submission. Michelle Smith, Principal Public Health Specialist, provided responses to questions asked.

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

Duncan Craig presented a summary on behalf of the Premises Licence Holder.

Dianne Slack presented a summary on behalf of Trading Standards.

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.

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 Solicitor.

Resolved:

At the hearing to review the premises licence, 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 heard from the Applicant that:

1. On 5 July 2019, the Applicant was informed by West Midlands Police that following the execution of a drugs warrant, they had found and seized substantial quantities of Class C drugs, illicit cigarettes and rolling tobacco from the Premises.
2. To knowingly keep or allow to be kept on relevant premises goods which were imported without duty paid or which had otherwise been unlawfully imported was an offence under section 144 of the Licensing Act 2003 and that mere possession of counterfeit products or illicit tobacco was an offence;

3. Following receipt of the information, Trading Standards officers had attended the Premises on 5 July 2019 and found 40 foreign cigarette sticks under the counter top and the cigarette gantry had been open, in breach of the Tobacco Advertising and Promotion (Display) (England) Regulations 2010. They had further found no refusals book to inspect, in breach of the conditions of licence of the Premises;
4. On the same day, a test purchase of alcohol and tobacco had been made at the premises by a female volunteer aged 15. She was able to purchase one can of 7.5% ABV Cider and 20 Minsk cigarettes, which constitute offences pursuant to s146 Licensing Act 2003 and s7 Children and Young Persons Act 1933. Furthermore, the sale of a high strength can of cider was a breach of the licence conditions;
5. On 3 and 27 September 2019, a licensing apprentice was able to purchase a single high strength can of Stout in breach of the licence conditions concerning the sale of single cans and the strength of the stout. The Apprentice was also not asked for identification with the Premises being required to operate the Challenge 25 policy;
6. On a visit on 27 September 2019, Trading Standards visited the Premises with West Midlands Police with a tobacco detection dog. Four packs of Gold NZ and three packs of Bahman cigarettes were discovered in the stair well behind the shop area. These were known as foreign cheap whites and were brands illegally imported to be sold on the black market. Again, the cigarette gantry had been open in breach of the regulations;
7. Previous visits to the Premises by Trading Standards had also led to the discovery of illicit tobacco but in smaller quantities and on those occasions guidance and a written warning were issued;
8. That these incidents show the Premises had breached multiple laws and multiple conditions of licence. Furthermore, they show that that the licensing objectives of the prevention of crime and disorder and protecting children from harm had not been upheld; and
9. They request revocation of the licence.

They heard from Mr Craig for the Premises that:

1. Mr Mahani had been the DPS and PLH for a considerable number of years;
2. That the Police and Trading Standards investigation was on going and it could well amount to nothing, but he had provided his explanations to them and wished to leave that matter there;
3. That he acknowledged that Subutex was found within the building but not within the licensable area of the Premises;
4. The hand rolling tobacco found was in fact shisha tobacco and Trading Standards had failed to particularise what was found;
5. Many of the Iranian brand cigarettes were in fact for personal use;
6. In relation to the underage sale, the minor was accompanied by someone who was clearly an adult and the CCTV would support this but Trading Standards were not relying upon any CCTV;
7. Mr Mahani accepted that he was unaware of the condition regarding the sale of single cans and high strength items; and

8. In general terms, he accepted that there had been shortcomings on his part and when taking into account the length of time he had been at the Premises, a stepped approach to deal with the matter would be appropriate. This could be a suspension for at least two months allowing time for proper systems and training to be put in place.

They heard from West Midlands Police:

1. The police authority supported the application of Trading Standards under the Crime and Disorder licensing objective.

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

1. The authority supported the application of Trading Standards; and
2. There had been a significant disregard for the conditions of the licence.

They heard from Public Health that:

1. They supported the application of Trading Standards.

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 should be treated particularly seriously, and where reviews arise and it is determined that the prevention of crime and disorder licensing objective was 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 Mr Mahani had failed to uphold the licensing objectives, namely the prevention of crime and disorder and the protection of children from harm.

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 protection of children from harm objectives the premises licence of Super Mahan should be revoked in accordance with Section 52 of the Licensing Act 2003.

This action was considered appropriate and proportionate action for the promotion of the crime and disorder and protection of children from harm licensing objectives.

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 could 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.

[NOT PROTECTIVELY MARKED]