

CITY OF  
WOLVERHAMPTON  
COUNCIL

# Statutory Licensing Sub-Committee

Minutes - 28 July 2020

## Attendance

### Members of the Statutory Licensing Sub-Committee

Cllr Alan Bolshaw  
Cllr Jonathan Crofts  
Cllr Anwen Muston

### Applicant

Duncan Craig  
Daniel Szkwarek  
Monika Duda

Barrister  
The Polish Shop Cash and Carry Ltd  
The Polish Shop Cash and Carry Ltd

### West Midlands Police

WPC Michelle Churm  
Aimee Taylor

### Officers

Anita Chonk  
Donna Cope  
Robert Marshall  
Chris Howell

Licensing & Compliance Officer  
Democratic Services Officer  
Solicitor  
Commercial Regulation Manager (observing)

*Item No.*    *Title*

**1        Apologies for absence**

Apologies were received from Debra Craner, Section Leader Licensing.

**2        Declarations of interest**

There were no declarations of interest.

**3        Exclusion of press and public**

Resolved:

That, in accordance with section 100A (4) of the Local Government Act 1972, the press and public be excluded from the meeting for the following items of business as they involve the likely disclosure of exempt information falling within paragraph 7 of Schedule 12A to the Act.

**4        Licensing Act 2003 - Application for a transfer of a premises licence in respect of Drink Buster, Unit 8 Crossways Shopping Centre, Wolverhampton Road, Heath Town, Wolverhampton, WV10 0QB**

An application for a transfer of a premises licence in respect of Drink Buster, Unit 8, Crossways Shopping Centre, Wolverhampton Road, Heath Town, Wolverhampton, WV10 0QB was considered following representations received from West Midlands Police.

The Chair welcomed all parties to the hearing and outlined the procedure to be followed. All parties confirmed that they understood the procedure.

Anita Chonk, Licensing and Compliance Officer provided an outline of the application. Mr Duncan Craig, Barrister representing the Applicant, Polish Shop Cash and Carry Ltd, confirmed that the summary provided was accurate.

The Chair invited the Applicant to present their application.

Mr Duncan Craig did so on behalf of the Applicant. He referred to the Revised Guidance issued under section 182 of the Licensing Act 2003, Paragraph 8.102, and stated that the representations submitted by West Midlands Police (WMP) were just hear say and did not constitute exceptional circumstances. He further stated that the intelligence logs provided by WMP were unsubstantiated allegations that had not been scrutinised or upheld.

Mr Craig highlighted that the Home Office (Immigration Enforcement) had not objected to the application and there was no evidence from any other authority, such as Trading Standards or HMRC, to support the information submitted by WMP.

He scrutinised the intelligence provided by WMP and stated the following:

- The Applicant held a licence with the Alcohol Wholesaler Registration Scheme (AWRS) and was therefore subject to regular checks from HMRC.

- None of the premises owned by the Applicant sold cigarettes so it was highly unlikely they were selling illicit cigarettes.
- There were no illegal workers at any of the Applicant's premises and there was a list of employees and their NI numbers to prove this.
- The Applicant did not sell products unfit for human consumption and their restaurant had a 5 Star hygiene rating.
- Immigration Enforcement had never visited any of the Applicant's premises as they had no concerns or reasons to do so.
- None of the premises owned by the Applicant had been subject to a premises licence review.
- The telephone numbers referred to within the intelligence logs were not the Applicants.
- The intelligence logs had never been investigated; one log gave no premises address details, and another referred to a premise that was not owned by the Applicant.
- Some intelligence logs were from six years ago.
- The Applicant had been a successful business owner for over a decade.
- The Applicant was extremely upset by the allegations and utterly refuted the claims.

The Chair afforded all parties present the opportunity to question the Applicant and their representative in relation to its submission.

Mr Duncan Craig and the Applicant responded to questions asked.

The Chair invited West Midlands Police to make representations.

PC Michelle Churm did so as per Appendix 2 of the report and additional Supplementary Packs. She referred to the Revised Guidance issued under Section 182 of the Licensing Act 2003, Paragraph 8.101, and stated that WMP had objected to the application in exceptional circumstance as they believed that granting the application would undermine the Prevention of Crime and Disorder Licensing Objective.

She stated that Drink Buster, Unit 8 Crossways Shopping Centre, Wolverhampton Road, Heath Town, Wolverhampton, WV10 0QB was within the CIZ and that WMP had a duty to raise their concerns regarding the application. She stated that three of the intelligence logs all related to illicit tobacco and that two of those were received last year. PC Churm further stated that the Police relied on intelligence received from phone calls and were concerned that the Applicant and/or employees were committing crimes.

The Chair queried the location of the premises, Drink Buster, and Anita Chonk, Licensing and Compliance Officer confirmed that the premises was not within the CIZ.

The Chair afforded all parties present the opportunity to question West Midlands Police in relation to its submission.

PC Churm responded to questions asked. She stated that other than the details regarding the underage alcohol sales offence in 2015, WMP had no further evidence

to support the intelligence logs. She confirmed that the caution was the sole criminal sanction given to the Applicant and that the intelligence regarding Kefirek could be discredited as that premises was not linked to the Applicant.

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

PC Churm, Mr Duncan Craig and the Applicant made final statements.

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 by the Solicitor.

Resolved:

The Statutory Licence Sub-Committee had taken note of all the written concerns in respect of the application to transfer the premises licence in respect of Drink Buster, Unit 8 Crossways Shopping Centre, Wolverhampton Road, Heath Town Wolverhampton, WV10 0QB. They had listened to the arguments of those who had spoken at the hearing, both for and against the application.

The application was made pursuant to Section 42 of the Licensing Act 2003. Section 44 deals with the determination of the application stating that the application was to be rejected if the Sub-Committee considered it appropriate for the promotion of the Prevention of Crime and Disorder Licensing Objective.

The Sub-Committee had considered both oral representation and written evidence from the Applicant, West Midlands Police and the Applicant's Representative. Within their submission, West Midlands Police had produced a number of intelligence logs.

Having considered all the evidence before them the Sub-Committee determined that if the transfer, as applied for, was granted, the Licencing Objective of the Prevention of Crime and Disorder would not be undermined. Therefore, the Sub-Committee's decision was to grant the application as applied for.

The factors considered by the Sub-Committee were as follows:

- None of the premises owned by the Applicant had been subject to a licence review.
- The premises did not fall within the CIZ as stated by West Midlands Police in their written objections.
- There were no concerns that the Applicant was involved in modern day slavery.
- There was insufficient evidence to support the Police intelligence reports.
- The criminal sanction of a caution against the Applicant in 2015.

The Solicitor advised that all parties had a right of appeal to the Magistrates' Court within 21 days of receipt of this decision.