

Statutory Licensing Sub-Committee

Minutes - 25 October 2022

Attendance

Members of the Statutory Licensing Sub-Committee

Cllr Phil Page (Chair)

Cllr Rashpal Kaur

Cllr Gillian Wildman

Premises Licence Holder

Mr Baljit Singh Batiya

Responsible Authorities

Greg Bickerdike

Lee Jenks

Nilusha Sahni

Licensing Authority

Trading Standards

Public Health

Employees

Anita Chonk

Angela Bernard

Jacob Stokes

Donna Cope

David Abel

Paul Dosanjh

Senior Licensing & Compliance Officer

Senior Solicitor

Democratic Services Officer

Democratic Services Officer (Observing)

Senior Solicitor (Observing)

Service Manager – Trading Standards & Licensing Act
(Observing)

Item No. *Title*

1 Apologies for absence

Apologies for absence were submitted by Amitabh Singh, Licensing Authority, and Dianne Slack, Trading Standards.

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 The Newsagents, 49 School Street, Wolverhampton, WV1 4LR

An application for a Review of a Premises Licence in respect of The Newsagents, 49 School Street, Wolverhampton, WV1 4LR had been received from West Midlands Police.

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.

Before inviting the officer from Licensing to outline the application, the Chair asked all parties present whether they had received the Supplementary Agenda Pack that was published on 24 October 2022. All parties confirmed that they had.

Anita Chonk, Senior Licensing & Compliance Officer, provided an outline of the application. She advised the Sub-Committee that the Applicant, West Midlands Police, had chosen to formally withdraw their representations from the meeting and were not present.

Angela Bernard, Senior Solicitor, advised the Sub-Committee that West Midlands Police could withdraw their representations no later than 24 hours before the meeting, but that the hearing must still take place as other Responsible Authorities had submitted representations.

The Chair invited the Licensing Authority to make representations. Greg Bickerdike, Licensing Manager, did so as per Appendix 4 of the report and the Supplementary Agenda Pack. He stated the following:

1. The Premises had shown disregard for the advice of the Council Officers and an ignorance of tobacco control laws.
2. The Premises was undermining the existing Public Space Protection Order by selling to street drinkers.
3. The Designated Premises Supervisor was currently failing to uphold the Licensing Objectives and therefore the Licensing Sub-Committee should add additional conditions to the licence.

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

The Chair invited Trading Standards to make representations. Lee Jenks, Team Leader - Trading Standards, did so as per Appendix 5 of the report and the Supplementary Agenda Pack. He stated the following:

1. On 4 August 2022, the Premises was found to have a large number of electronic smoking devices with oversized tanks.
2. These devices were unlawful and contributed to the undermining of public safety.
3. These devices were subsequently seized.

The Chair invited all parties present to question Trading Standards in relation to its submission. The Team Leader – Trading Standards responded to questions asked.

The Chair invited Public Health to make representations. Nilusha Sahni, Senior Public Health Specialist, did so as per Appendix 6 of the report. She stated the following:

1. Evidence had shown that the Premises was selling to known street drinkers and that this was not in line with the Licensing Objectives as it further contributed and exacerbated alcohol misuse and harm in the city.
2. Data showed that Wolverhampton was a regional outlier for alcohol-related harm and had one of the highest alcohol-related mortality rates in the country.
3. St. Peters Ward was the second highest in the city for alcohol-related hospital admissions.
4. National evidence showed a link between single can sales and high levels of alcohol dependency.
5. There was a well-established link between alcohol and crime as well as a significant risk of hidden harm.

The Chair invited all parties present to question Public Health in relation to its submission. The Senior Public Health Specialist responded to questions asked.

The Chair invited the Premises Licence Holder to make representations. Mr Baljit Singh Batiya did so. He stated the following:

1. The Premises had not made any underage sales.
2. He had been subjected to verbal and racial abuse and had been physically assaulted. The Police had not attended in these instances.
3. The street drinkers were located at the P3 Charity building nearby, and that building should be better staffed to help tackle current problems.
4. He was happy with the conditions proposed except for the restriction on the sale of alcohol which exceeded 6.5% alcohol by volume (ABV) strength, which he felt would hurt his business financially.

The Chair afforded all parties present the opportunity to question Mr Batiya in relation to his submission. Mr Batiya responded to questions asked.

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

The Licensing Manager and Premises Licence Holder made a final statement.

The Senior Solicitor provided legal guidance to members and reminded them of the available options.

Councillor Page, Councillor Wildman, Councillor Kaur, the Senior Solicitor and Democratic Services Officer withdrew from the meeting to enable the Sub-Committee to determine the matter.

The Sub-Committee adjourned at 11.28 hours.

The Hearing reconvened at 12.14 hours.

Councillor Page, Councillor Wildman, Councillor Kaur, the Senior Solicitor and Democratic Services Officer 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 West Midlands Police Licensing and Regulatory Officer Aimee Taylor on 5 September 2022 for a review of the Premises Licence in respect of The Newsagents, 49 School Street, Wolverhampton, WV1 4LR.

Representations were received from the Licensing Authority, Public Health and from Trading Standards as Responsible Authorities. The Committee also heard from the Premises Licence Holder Mr Baljit Singh Batiya.

At the hearing on 25 October 2022 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 applicant for review, West Midlands Police, have withdrawn their representation in a letter emailed to the Democratic Services Officer and have informed the Sub-Committee they will not be attending today's hearing. The hearing under section 52 (2) Licensing Act 2003 must take place and consider any relevant representations which the Statutory Licensing Sub-Committee have received.

The Licensing Sub-Committee heard from Greg Bickerdike 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 with suggested further conditions added to the Licence.

The Licensing Sub-Committee heard from Lee Jenks for Trading Standards, that:

- On 4 August 2022, Trading Standards inspected the above premises. Around the counter area and shelving, 116 electronic nicotine devices (Vapes) were discovered for sale or supply that either were believed to be incorrectly labelled, had incorrect health warnings or had nicotine tanks believed to be in excess of the legal limit of 2 ml.
- These are potential criminal offences under the Consumer Protection from Unfair Trading Regulations 2008 and the Tobacco and Related Products

Regulations 2016. The vapes were voluntarily surrendered for destruction by Mr Batiya.

- All nicotine-inhaling vapes must be notified to the Medicines and Healthcare products Regulatory Agency (MHRA) before they can be sold in the UK. Any nicotine-containing vapes will not pass the notification procedure if they have too large a tank or too much nicotine.
- It is suspected that the illicit vapes found on the premises have been smuggled into the UK.
- The application for review and the discovery of the above products illustrates that no regard has been considered for the said licensing objectives.
- The premises licence holder and management have failed to uphold the licensing objective(s) of the Prevention of Crime and Disorder, nor has consideration been given to protecting the public from illegal nicotine products.

The Licensing Sub-Committee heard from Nilusha Sahni for Public Health at Wolverhampton Council that the premises in question is located within one of the most concerning geographical areas to Public Health, with an overall risk rating of HIGH. St. Peter's has the lowest rating compared to all wards in the city when viewed against a number of data sets. Key points to be noted:

- St Peter's has the highest risk out of all 20 wards when looking at key data sets.
- St Peter's has amongst the highest levels of deprivation across the city, and this is evident in the ward and immediate vicinity, which is suffering from several issues regarding deprivation and has alcohol misuse as a vital issue at the forefront.
- The City of Wolverhampton has the highest rate of alcohol specific mortality across the country and is a regional outlier for alcohol related hospital admission and alcohol related mortality.
- It is the view of Public Health that any licensee who is not actively promoting the Licensing Objectives should be subject to review, particularly in view of the complex issues facing the area. 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.

The Licensing Sub-Committee heard from the Premises Licence Holder, Mr Baljit Singh Batiya, who stated that:

- He had complained about a lack of support from the police and complained about being assaulted in his shop.
- He was happy with the conditions proposed except for the restriction on the sale of alcohol which exceeds 6.5% alcohol by volume (ABV) strength, which he felt would hurt his business financially.

The options open to the Sub-Committee today are as follows:

- modify the conditions of the licence
- 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 The Newsagents, 49 School Street, Wolverhampton, WV1 4LR should be modified as follows:

- A digital CCTV system will be in place which covers entry/exit points of the premises and all areas where alcohol/money is served/taken, all areas where the public have access, the immediate vicinity outside the premises (and any area where searches are conducted). The system will be installed and maintained in working order at the premises during all times when the premises is open. The system's recorded images and video will be high definition, in colour, indicate the correct date and time and be kept for at least 31 days unedited. The footage will enable facial identification of every person entering the premises, in any light condition.
- At least one designated member of staff will be trained to use the CCTV system and be available to provide downloads upon request or, in any case, within 24 hours. Images and video will be downloadable in a suitable format and provided to any officer of a Responsible Authority upon request.
- An electronic or written incidents log will be maintained at the premises with a record of all incidents of crime and disorder reported to or by the premises; all ejections of patrons; any complaints received; seizures of fraudulent ID or other items; any faults in the CCTV system; any visit by a relevant authority or emergency service. The incidents log will be produced to an officer of a Responsible Authority upon request.
- Where a crime is believed to have been committed, the incident will be reported to the West Midlands Police. The incidents log will be kept for at least 12 months and will be produced to an officer of a Responsible Authority upon request.
- Any supply of alcohol for consumption off the premises must be within a sealed container.
- Beer, cider and mixed drinks (such as cocktails and alcopops) are to be stocked and sold in multipacks of a minimum of four units. Multipacks must not be split.
- Sales of alcohol are not to include any super strength lagers, beers or ciders where strength exceeds 6.5% ABV.
- All customer-facing staff to receive training before their first shift when the premises is open to the public and refresher training every six months on their responsibilities with regard to licensing legislation, underage and proxy sales.
- Training will also cover Challenge 25, personal safety, conflict management, recognising signs of drunkenness, how to refuse service, the premises duty of care, safe evacuation of the premises, company policies and reporting procedures, action to be taken in the event of an emergency, including the preservation of a crime scene and reporting an incident to the emergency services, and the conditions in force under this Licence.
- This training must be documented and produced to an officer of a Responsible Authority upon request.
- An A4 Public Space Protection Order (PSPO) notice, provided by the Licensing Authority will be displayed prominently on the premises, visible from outside of the premises.

- The Challenge 25 scheme will be operated to ensure that any person who appears to be under the age of 25 will provide documented proof that they are over 18 years of age. Proof of age will only comprise a passport, photocard driving licence, an EU/EEA national ID card or a card bearing the PASS hologram.
- An electronic or written refusals log will be maintained at the premises with a record of all refusals of admission or service, including the sale of alcohol. The refusals log will include the basis of a refusal; the person making the decision to refuse; the date and time of refusal.
- The refusals log will be kept for at least 12 months and will be produced to an officer of a Responsible Authority upon request.
- All customers-facing licensing staff to receive training from an Accredited Licensing Firm before their first shift when the premises is open to the public and refresher training every six months on their responsibilities with regard to licensing legislation.

The Licensing Sub-Committee felt the conditions could quickly be put into effect and that therefore it was not necessary to impose a period of suspension on the premises. These are considered necessary and proportionate actions to uphold the four licensing objectives:

1. Prevention of Crime and Disorder
2. Public Safety
3. Protecting Children from Harm
4. Public Nuisance

Written notice of the determination will be given to the holder of the licence, and any other person who made relevant representations.

An appeal may be made to the Magistrates' Court against the decision by 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.