

CITY OF
WOLVERHAMPTON
COUNCIL

Statutory Licensing Sub-Committee

Minutes - 29 September 2020

Attendance

Members of the Statutory Licensing Sub-Committee

Cllr Alan Bolshaw
Cllr Jonathan Crofts
Cllr Keith Inston

Premises Licence Holder

Angelo Salvo

Premises Licence Holder

Review Applicant

Dianne Slack

Trading Standards

Responsible Authorities

Elaine Moreton
Greg Bickerdike
Amy Baker

Licensing Authority (observing)
Licensing Authority
Public Health

Officers

Elizabeth Gregg
Richard Phillips
Donna Cope

Senior Licensing & Compliance Officer
Solicitor
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.

3 Licensing Act 2003 - Application for a Review of a Premises Licence in respect of Salvo's Convenience, 575 Parkfield Road, Wolverhampton, WV4 6EL

An application for a Review of a Premises Licence in respect of Salvo's Convenience, 575 Parkfield Road, Wolverhampton, WV4 6EL, had been received from Trading Standards.

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.

Elizabeth Gregg, Senior Licensing and Compliance Officer, provided an outline of the application and reported that after the agenda had been published, an application to transfer the premises licence had been received.

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 Angelo Salvo, Premises Licence Holder, stated the following:

1. The tobacco gantry had been broken for a period of two years and he had been waiting for it to be fixed;
2. He had attempted to cover the cigarettes with black bin liners;
3. The erectile dysfunction tablets were for family use and were not for sale;
4. He had sold the business in August and no longer owned the business; and
5. He had sold some illicit tobacco, but they were mostly for personal use.

The Chair afforded all parties present the opportunity to question Mr Salvo in relation to his submission. In response to questions asked, Mr Salvo stated the following:

1. The erectile dysfunction tablets were his fathers, which had been left in the shop by error and were categorically not for sale;
2. He had not been able to afford to get the tobacco gantry fixed and had been waiting on a company to repair it;
3. He did not have a prescription for the erectile dysfunction tablets and did not know why they had been found in his father's van;
4. Staff training was provided every six months;
5. As he had sold the business, he hoped that any action would be taken against him and not the premises.

The Chair invited the Licensing Authority to make representations. Greg Bickerdike, Section Leader Licensing, 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. Greg Bickerdike, Section Leader Licensing, provided responses to questions asked.

The Chair invited Public Health to make representations. Amy Baker, Health Improvement Officer, did so as per Appendix 4 of the report.

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

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

Greg Bickerdike, Licensing Authority, Mr Angelo Salvo, Premises Licence Holder and Dianne Slack, Trading Standards, all made a final statement.

Councillor Bolshaw, Councillor Crofts, Councillor Inston, the Solicitor and Democratic Services Officer, withdrew from the meeting to enable the Sub-Committee to determine the matter.

The Sub-Committee adjourned at 11.30 hours.

The Hearing reconvened at 11.58 hours.

Councillor Bolshaw, Councillor Crofts, Councillor Inston, the 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 Solicitor.

Resolved:

At the Hearing 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 spoke at the hearing.

They heard from the Applicant that:

1. On 25 February 2020, Trading Standards Officers organised a covert test purchase of illicit tobacco from the premises. A packet of 20 Richmond cigarettes were sold to the purchaser for £4. These cigarettes were believed to be counterfeit;
2. On 5 March 2020, Trading Standards Officers, a tobacco detection dog and West Midlands Police attended the premises. During this visit they discovered:
 - i. The cigarette gantry was open exposing tobacco products for sale, contrary to the Tobacco Advertising and Promotion (Display) (England) Regulations 2010;
 - ii. Illegal tobacco products were found on the premises including suspected counterfeit Richmond cigarettes, Duty Free marked LIFA menthol cigarettes, hand rolling tobacco which bore foreign warning labels and cheap white Richman cigarettes which were foreign brands brought into the UK for sale on the black market without the correct duty having been paid;
 - iii. Sildamax Sildenafil Citrate 100mg tablets which are pharmacy-controlled drugs used to treat erectile dysfunction were discovered behind the counter. The sale of such tablets by the premises was a breach of the Human Medicines Regulations 2012;
 - iv. A van outside the shop belonging to the premise's manager was found to have a further 1160 packets of 'Duty Free Only' cigarettes and 329 Sildamax Sildenafil Citrate 100mg tablets were also present;
 - v. The Premises Licence Holder and Manager were both advised during the inspection that it was a criminal offence to possess, supply or sell counterfeit products or illicit tobacco;
3. On 20 February 2015 the premises had previously been warned following a seizure of illicit tobacco products from the premises;
4. To knowingly keep or allow to be kept on the premises, goods such as cigarettes and hand rolling tobacco which had been imported without payment of the appropriate duty or otherwise illegally imported was a criminal offence under the Licensing Act 2003;
5. That the above demonstrated that the premises had engaged in activities which breach the prevention of crime and disorder Licensing Objective. The s182 guidance sets out that such activity should be considered particularly seriously, and that suspension or revocation should be seriously considered even in the first instance; and
6. They requested revocation of the licence today.

They heard from Mr Salvo for the Premises that:

1. The tobacco gantry had been broken for a period of two years and he had been waiting for it to be fixed but he had not got the money to get it fixed;
2. He had attempted to cover the cigarettes with black bin liners;
3. The erectile dysfunction tablets were his fathers, which had been left in the shop by error and were categorically not for sale;
4. He had sold the business in August and no longer owned the business; and
5. He accepted he had sold some illicit tobacco but said they were mostly for personal use and that of his family who all smoke.

They heard from Mr Bickerdike, Licensing Authority as responsible authority that:

1. The Licensing Authority supported the application by Trading Standards;
2. The Committee should take account of the s182 guidance in relation to the issues highlighted by this review; and
3. The Licensing Authority recommended revocation of the licence.

They heard from Public Health that:

1. They supported the application of Trading Standards; and
2. The sale of illicit tobacco had severe public health implications.

The Sub-Committee may 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 was 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 Salvo had failed to uphold the Licensing Objective of the prevention of crime and disorder.

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 Licensing Objective, the Premises Licence of Salvo's Convenience should be revoked in accordance with Section 52 of the Licensing Act 2003.

This action was considered an appropriate and proportionate action for the promotion of the crime and disorder Licensing Objective.

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.