

Statutory Licensing Sub-Committee

Minutes - 27 June 2022

Attendance

Members of the Statutory Licensing Sub-Committee

Cllr Phil Page (Chair)

Cllr Gillian Wildman

Cllr Wendy Dalton

Applicant for Review

Dianne Slack

Trading Standards

Premises Licence Holder

Rashwinder Singh Roshy

Rob Edge

Premises Licence Holder

Agent

Responsible Authorities

Amitabh Singh

Officer Aimee Taylor

Alison Oldfield

Licensing Authority

West Midlands Police

West Midlands Police

Employees

Debra Craner

David Abel

Donna Cope

Section Leader Licensing

Senior Solicitor

Democratic Service Officer

Item No. *Title*

1 Apologies for absence

Apologies for absence were received from Michelle Smith, Public Health.

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 Roma Wines, 55 Pendeford Avenue, Claregate, Wolverhampton, WV6 9EH

An application for a Review of a Premises Licence in respect of Roma Wines, 55 Pendeford Avenue, Claregate, Wolverhampton, WV6 9EH 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.

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.

Debra Craner, Section Leader Licensing, 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 Rob Edge, Agent for the Premises Licence Holder, stated the following:

- Mrs Roshy was sorry for her mistakes and the underage sale had taken place when her mother had been seriously ill.
- The breach of conditions referred to on page 18 of the agenda pack had not occurred under the management of Mrs Roshy, as she had not become Premises Licence Holder until 2017.

Further to this, Mr Edge proposed the following:

- That the current Designated Premises Supervisor be removed and replaced.

- That the shop be closed for one day a week, for the next seven weeks, to allow full staff training to be given.
- That no sales should take place until full training had been given to all staff.

Mrs Roshy, Premises Licence Holder, stated the following:

- She was sorry and deeply regretted the incident.
- Future underage sales would not happen, and the Premises would be well run.
- She had been stressed caring for her mother who was unwell and passed away a few months later, and she was also unwell herself, taking anti-biotics at the time.
- This was the first time that she had accidentally made an underage sale in the last five years.
- The person that she had served with alcohol had appeared to her to be over 25 years old which is why she did not request ID.
- She did not ask the person to remove her mask because of Covid health concerns.

The Chair afforded all parties present the opportunity to question Mr Edge and Mrs Roshy in relation to their submission.

Mrs Roshy stated that she had listened to the advice given and a Statutory Tobacco Notice had been displayed as required, the refusals book had been regularly completed and was in use, and Refresher Training had been organised for all employees.

The Chair invited the Licensing Authority to make representations. Amitabh Singh, Section Leader Licensing, did so as per Appendix 4 of the report. He stated that the actions of the Premises had undermined the Licensing Objectives and therefore he supported Trading Standard's submission for the premises licence to be revoked.

The Chair invited all parties present to question the Licensing Authority in relation to its submission. No questions were asked.

The Chair invited the West Midlands Police to make representations. Aimee Taylor did so as per Appendix 5 of the report. She stated that West Midlands Police had no trust in the Premises and supported Trading Standard's submission for the premises licence to be revoked.

The Chair invited all parties present to question the West Midlands Police in relation to its submission. No questions were asked.

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

Mr Edge, Agent for the Premises Licence Holder, made a final statement.

David Abel, Senior Solicitor, provided legal guidance to Members and reminded them of their available options.

Councillor Page, Councillor Dalton, Councillor Wildman, 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 10.35 hours.

The Hearing reconvened at 11.18 hours.

Councillor Page, Councillor Dalton, Councillor Wildman, 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 had been made by The City of Wolverhampton Trading Standards Department as a Responsible Authority on 26 April 2022 for a review of the Premises Licence in respect of Roma Wines, 55 Pendeford Avenue, Claregate, Wolverhampton, WV6 9EH, on the grounds that actions at the premises had undermined the Licensing Objectives.

Representations had been received from the Licensing Authority, West Midlands Police and from Public Health as Responsible Authorities and from the Premises Licence Holder, Mrs Rashwinder Singh Roshy, and her Representative Mr Rob Edge.

At the hearing on 27 June 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.

The Licensing Sub-Committee heard from Dianne Slack for Trading Standards, the Applicant for review, that:

1. Following 3 underage test purchases of alcohol in 2007, 2008 and 2010, conditions had been imposed upon Roma Wines following a Hearing on 27 June 2011.
2. On 21 October 2020 information had been received alleging that alcohol and tobacco were being sold from Roma Wines to children under 18. An underage test purchase had been made on 21 October 2020 using a 15 year old volunteer for the City of Wolverhampton Council from Roma Wines. The Volunteer had purchased a bottle of WKD alcohol which was a criminal offence. There had been no attempt to ask her age, to ask for identification or to lower her face mask. The seller of the alcohol, believed to be the shop owner was then spoken to by the Police and Trading Standards. The volunteer had been refused at five other shops that evening.
3. On 16 December 2020, during a challenge 25 survey, a young looking adult attempted to purchase alcohol from Roma Wines to establish if the sale on 21 October 2020 was a mistake. On that occasion the volunteer was asked for ID but only when prompted by another staff member. A written warning letter was then issued to Roma Wines on 12 May 2021.

4. On 4 October 2021 another complaint was referred to Trading Standards alleging underage sales from Roma Wines.
5. On 2 November 2021 four cans of Budweiser beer were sold to a 16 year old authorised volunteer on behalf of Wolverhampton Council. No attempt had been made to ask her age, ask for identification or lower her face mask. The 16 year old had been refused age restricted products at four other shops that night.
6. It was a mandatory condition that the shop operated an age verification policy and Roma Wines should have been operating a Challenge 25 and NO ID NO SALES policy.
7. The sale had been made by the owner and DPS for Roma Wines, Mrs Rashwinder Singh Roshy. Officers from Trading Standards and from West Midlands Police went into the shop after the sale to discuss what had happened. Whilst there, they noted that there was no Statutory Tobacco Notice on display as required and although there was a refusals book, its last entry had been made on 1 March 2021. A Traders Notice was left at the Premises.
8. Trading Standards believed that the Licensing Objectives of the Prevention of Crime and Disorder and the Protection of Children from Harm had been undermined by the way in which the Premises had operated and therefore the Premises Licence should be revoked.

The Licensing Sub-Committee heard from Amitabh Sigh for the Licensing Authority that they supported the Application for Review and believed that the actions at the Premises had undermined the Licensing Objectives and therefore that the Premises Licence should be revoked.

The Licensing Sub-Committee heard from Aimee Taylor for West Midlands Police that they supported the Application for Review and believed that the actions at the Premises had undermined the Licensing Objectives of the Prevention of Crime and Disorder and the Protection of Children from Harm and therefore that the Premises Licence should be revoked.

The Licensing Sub-Committee had not heard from Public Health at Wolverhampton Council as they had not attended. Therefore, limited weight had been given to their written representation that they supported the Application for Review and believed that the actions at the Premises had undermined the Licensing Objectives and therefore that the Premises Licence should be revoked.

The Licensing Sub-Committee heard from the Premises Licence Holder and from her representative Mr Rob Edge, that the person she had served with alcohol had appeared to her to be over 25 years old which is why she had not requested ID. She had not asked the person to remove her mask due to Covid concerns. She had been stressed caring for her mother who had been unwell and passed away a few months later, and she had also been unwell herself, taking anti-biotics at the time. This had been the first time that she had accidentally made an underage sale in the last five years. She had listened to the advice given and a Statutory Tobacco Notice had been displayed as required, the refusals book had been regularly completed and was in use, and Refresher Training had been organised for all employees.

The Premises Licence Holder had apologised and explained that future underage sales would not happen and that the Premises would be well run in future.

Mr Edge had proposed that:

- The current DPS be removed and replaced.
- The shop be closed for one day a week for the next seven weeks to allow full staff training to be given.
- No sales should take place until full training had been given to all staff.

The options open to the Sub-Committee were as follows:-

- Modify the conditions
- 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 had 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 had, on the balance of probabilities, found that in order to promote the licensing objectives the premises licence of Roma Wines should be revoked in accordance with s52 LA 2003.

This action was considered an appropriate and proportionate action for the promotion of the four licensing objectives. The measures proposed by the Premises Licence Holder were deemed insufficient to promote the licensing objectives in light of repeated underage sales at the Premises.

It was deemed inappropriate to modify conditions and suspend the licence as the repeated instances of underage sales demonstrated that the Premises Licence Holder appeared not able to comply with conditions of licence and the Sub-Committee did not believe that suspension for a limited period would assist in mending the behaviour already witnessed. The Sub-Committee noted that the underage sales occurred over a prolonged period of time and that the Responsible Authorities attending had recommended the revocation of the Premises Licence.

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 to the Magistrates' Court against the decision, by the applicant, 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 the decision.