

Coventry City Council
Minutes of the Meeting of Licensing and Regulatory Sub-Committee (Hearing)
held at 10.00 am on Monday, 7 March 2016

Present:

Members: Councillor A Andrews
Councillor D Galliers (Chair)
Councillor R Thay

Employees (by Directorate):

Place: D Cahalin-Heath

Resources: L Knight, A Wright

In Attendance: PC J Bowes, West Midlands Police
D Gardner, Coventry City Council
A Harwood, Coventry City Council
S Qadir, Licensee

Public Business

5. Appointment of Chair

RESOLVED that Councillor Galliers be elected as Chair of this meeting.

6. Declarations of Interest

There were no declarations of interest.

7. Licensing Act 2003 - Review of Premises Licence

The Sub-Committee considered an application by Coventry Council Trading Standards for a review of the premises licence at European Supermarket, 651 Foleshill Road, Coventry. The review application sought to revoke or suspend the premises licence for a period of three months.

The grounds for the review were that the Licensing Objectives of Prevention of Crime and Disorder and Public Safety had not been promoted. This consideration was made following visits to the premises during which illegal tobacco products were found and seized.

The Sub-Committee heard submissions from the Review Applicant and the Police in support of the application. It also considered a written representation made by the Public Health department of Coventry City Council.

The Review Applicant explained to the Sub Committee that the premises had been subject to a number of targeted inspection visits by the Trading Standards Fraud and Financial Investigations team. During these visits, illegal tobacco products (products that are counterfeit and/or smuggled or duty free which do not display the health warning 'Smoking Kills' in English) had been found and seized.

Following these seizures, the Licensee had appeared before Nuneaton Magistrates Court on 19th August 2014, where he entered a guilty plea to charges relating to the sale and supply of illicit tobacco. He was fined £1500.

Following this prosecution, it was noted that a minor variation to the premises licence was sought by Trading Standards. This was signed by the Licensee on 5th November 2014, and stated that all alcoholic and tobacco products should be purchased from legitimate traceable sources that provide receipts to confirm purchased items.

Notwithstanding the variation to the premises licence, further complaints were made regarding the continuing sale of illicit cigarettes from the premises. Trading Standards had cause to visit the premises on a number of occasions throughout 2015, during which more illicit tobacco was seized from the premises. The Licensee was given verbal advice, as well as written warnings, that his premises licence could be reviewed if the sales did not stop.

The Review Applicant explained to the Sub Committee that the Licensee blatantly ignored the written warnings, and a further seizure of 182 packets of cigarettes was made in October 2015. The Licensee was interviewed under caution in November 2015 and admitted continuing to sell the illicit tobacco, in breach of his licence conditions.

The Licensee was made aware on 5th January 2016 that his Premises Licence was to be reviewed. Since this date, further seizures had been made of illicit cigarettes from the premises.

During the 28 day notice period as part of the review application procedure, the Police and the Public Health department had made representations in support of the Review Applicant. The Police noted that visits to the premises revealed that the CCTV was not working properly. The Police were also extremely concerned that the staff working at the premises had limited understanding of basic licensing law. Further, there were on-going concerns of children and young males around the premises, although no alcohol had been seen.

The Public Health department provided written representations which were taken into account by the Sub Committee.

The Licensee advised the Sub Committee that the CCTV camera was now working. He also advised that he had not been selling alcohol to young people, and he would stop selling illicit cigarettes. The Licensee admitted that he found the rent at his shop expensive and sold the illicit cigarettes to try and cover some of the cost. He was aware that the cigarettes were illegal. He advised the Sub Committee that other premises in the vicinity were doing the same thing.

In reaching its decision, the Sub Committee had regard to both national guidance and the Council's own policy.

In particular, the Sub Committee noted that whilst the Police were to be regarded as the primary source of advice on the Prevention of Crime and Disorder (paragraph 9.12), Trading Standards were the main source of information in

respect of the trade in illicit cigarettes. The Sub Committee noted that the Police and the Public Health department of Coventry City Council supported the application to revoke or suspend the licence.

The Sub Committee noted paragraph 11.27 of the statutory guidance which notes, in the context of review applications, that certain criminal activity should be treated as being particularly serious, including smuggled tobacco.

The Sub Committee also had regard for paragraph 11.28, which noted that where reviews arise and the Licensing Authority determines that the crime prevention objective is being undermined through the premises being used to further crimes, it is expected that revocation of the Licence – even in the first instance – should be seriously considered.

The Sub Committee noted that one of the incidents relating to the sale of illicit tobacco took place during the review application process, and following on from numerous verbal and written warnings by Trading Standards, in addition to a prosecution in 2014 for the sale of illicit cigarettes, to which the Licensee pleaded guilty.

Further, the Sub Committee noted that the Licensee has breached his licence conditions by continuing to sell illicit cigarettes notwithstanding the variation made to his licence following on from his prosecution, that condition being to only obtain alcohol and cigarettes from legitimate sources.

The Sub Committee considered that the Licensee had failed to provide any assurances or details of any controls that he could put in place to prevent a re-occurrence of the reported incidents.

The Sub Committee considered that a suspension of the licence would not be appropriate owing to all previous interventions being ignored by the Licensee.

The Sub Committee therefore concluded that revocation of the Premises Licence was appropriate and proportionate in the circumstances.

RESOLVED that the premises licence is revoked.

8. Any Other Business

There were no additional items of business.

(Meeting closed at 11.00 am)